PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions of the following titles were introduced and severally referred as follows:

By Mr. BURTON: A bill (H. R. 14948) granting an increase of pension to John Wilson—to the Committee on Invalid Pensions.

By Mr. BOWERSOCK: A bill (H. R. 14949) granting an increase of pension to William J. Shepard—to the Committee on Invalid Pensions.

By Mr. KAHN: A bill (H. R. 14950) for the relief of the Alaska Commercial Company—to the Committee on Claims.

By Mr. PADGETT: A bill (H. R. 14951) for the relief of John V. Wright—to the Committee on Claims.

By Mr. PEARRE: A bill (H. R. 14952) granting an increase of pension to L. S. Grove—to the Committee on Invalid Pensions.

By Mr. POWERS of Massachusetts: A bill (H. R. 14953) granting an increase of pension to Mrs. Charles H. Cushman—to the Committee on Pensions.

Also, a bill (H. R. 14954) granting an increase of pension to Michael Finnerty—to the Committee on Invalid Pensions.

Also, a bill (H. R. 14955) granting a pension to John C. Currier—to the Committee on Invalid Pensions.

By Mr. RICHARDSON of Tennessee: A bill (H. R. 14956) for the relief of the heirs of John T. Lawrence, deceased—to the Committee on War Claims.

By Mr. RODEY: A bill (H. R. 14957) granting an increase of pension to Mathias Custer—to the Committee on Invalid Pensions.

By Mr. SPARKMAN: A bill (H. R. 14958) granting an increase of pension to Lewis S. George—to the Committee on Invalid Pensions.

By Mr. WILLIAMS of Illinois: A bill (H. R. 14959) granting increase of pension to Alexander T. Sulinyer—to the Committee on Pensions.

By Mr. LANDIS: A bill (H. R. 14960) granting an increase of pension to Joel M. Street—to the Committee on Invalid Pensions.

By Mr. GIBSON: A bill (H. R. 14961) granting a pension to W. E. Sharp—to the Committee on Pensions.

By Mr. BARTHOLDT: A bill (H. R. 14963) granting an increase of pension to Hermann Tuerk—to the Committee on Invalid Pensions.

By Mr. RICHARDSON of Tennessee: A resolution (H. Res. 290) referring to the Court of Claims the claim of the heirs of John T. Lawrence, deceased—to the Committee on War Claims.

By Mr. OTJEN: A resolution (H. Res. 291) referring to the Court of Claims House bills Nos. 6511, 9380, 10014, 5042, 8262, 9479, 5717, 5720, 10127, 10128, 10081, 1764, 2211, 8377, 3276, 10123, 10867, 5564, 8330, 12030, 8265, 8006, 13965, 5493, 5491, 5502, 5507, 5508, 5484, 11143, 12747, 12748, 13603, 13903, 8264, 10349, 6715, 3279, 7421, 12445, 13518, 13521, 3423, 5976, 14901, 3613, 3719, 1773, 7438, and 11051—to the Committee on War Claims.

PETITIONS, ETC.

Under clause 1 of Rule XXII, the following petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. BARNEY: Petition of the Milwaukee Convention of Congregational Churches of Wisconsin, for a law forbidding gambling and sale of lottery tickets by telegraph—to the Committee on the Judiciary.

By Mr. BARTHOLDT: Papers to accompany House bill granting an increase of pension to Hermann Tuerk—to the Committee on Invalid Pensions.

By Mr. BROMWELL: Petition of citizens of Wyoming, Ohio, urging the passage of Senate bill 1890, the per diem pension bill—to the Committee on Invalid Pensions.

By Mr. BUTLER of Pennsylvania (by request): Petitions of Nottingham Monthly Meeting of Friends; Woman's Christian Temperance Union of Oxford; Baptist Church, United Presbyterian Church, Methodist Episcopal Church, Presbyterian Church, and Second Presbyterian Church, colored, all of Oxford, Pa., for prohibition in the islands, and further and full trial of the anticanteen law—to the Committee on Insular Affairs.

Also (by request), petitions of the Woman's Christian Temperance Union and various churches of Oxford, Pa., above named, in relation to polygamous marriages—to the Committee on the Judiciary.

By Mr. DRAPER: Resolutions of West Side Lodge, No. 320, International Association of Machinists, of New York, favoring the construction of war vessels at the Government navy-yards—to the Committee on Naval Affairs.

By Mr. GIBSON: Papers to accompany House bill granting a pension to W. E. Sharp—to the Committee on Pensions.

By Mr. GROSVENOR: Petition of 21 citizens of Pike Run, Vinton County, Ohio, favoring a bill to modify the pension laws—to the Committee on Invalid Pensions.

By Mr. HOWELL: Resolutions of the board of water commissioners of Hoboken, N. J., indorsing House bill 6279, to increase the pay of letter carriers—to the Committee on the Post-Office and Post-Roads.

Also, petition of citizens of Bordentown, N. J., for a Sunday law for the national capital—to the Committee on the District of Columbia.

By Mr. KERN: Resolutions of Mine Workers' Union No. 688, of Birkner Station, Ill., for more rigid restriction of immigration—to the Committee on Immigration and Naturalization.

Also, resolutions of Team and Livery Drivers' Union No. 237, Federal Labor Union No. 8165, Retail Clerks' Association No. 371, United Mine Workers' Union No. 705, and Mine Examiners' Mutual Aid Association No. 18, all of O'Fallon, Ill., favoring the passage of the Grosvenor anti-injunction bill—to the Committee on the Judiciary.

By Mr. LINDSAY: Resolutions of West Side Lodge, No. 320, International Association of Machinists, of New York, favoring the construction of war vessels in the United States navy-yards—to the Committee on Naval Affairs.

By Mr. PAYNE: Petition of Jane C. Palmer and others, of Penn Yan, N. Y., for an amendment to the Constitution preventing polygamous marriages—to the Committee on the Judiciary.

By Mr. RUPPERT: Resolutions of West Side Lodge, No. 320, International Association of Machinists, of New York, favoring the construction of war vessels at the Government navy-yards—to the Committee on Naval Affairs.

By Mr. TAYLER of Ohio: Petitions of posts of the Grand Army of the Republic of East Liverpool, Canton, Leetonia, Canal Fulton, Alliance, North Gearytown, and Post No. 600, Department of Ohio, favoring the passage of House bill 3067—to the Committee on Invalid Pensions.

Also, petitions of citizens of Youngstown, Ohio, for an amendment to the Constitution preventing polygamous marriages—to the Committee on the Judiciary.

By Mr. VAN VOORHIS: Resolutions of Central Trades and Labor Council, Zanesville, Ohio, and Trades and Labor Assembly of Marietta, Ohio, indorsing House bill 6279, to increase the pay of letter carriers—to the Committee on the Post-Office and Post-Roads.

By Mr. WILLIAMS of Illinois: Paper in support of bill to increase the pension of Alexander T. Sulinger—to the Committee on Pensions.

Also, paper to accompany House bill granting a pension to James M. Blades—to the Commitee on Invalid Pensions.

SENATE.

SATURDAY, *June 7, 1902.*

Prayer by Rev. F. J. PRETTYMAN, of the city of Washington.

The Secretary proceeded to read the Journal of yesterday's proceedings, when, on request of Mr. CLAY, and by unanimous consent, the further reading was dispensed with.

The PRESIDENT pro tempore. Without objection, the Journal will stand approved.

RENTAL OF BUILDINGS.

The PRESIDENT pro tempore laid before the Senate a communication from the Postmaster-General, transmitting, in response to a resolution of the 22d ultimo, certain information relative to quarters rented by the Post-Office Department, giving the location, area of floor space occupied, and the annual rental thereof; which was referred to the Committee on Appropriations, and ordered to be printed.

He also laid before the Senate a communication from the Interstate Commerce Commission, transmitting, in response to a resolution of the 23d ultimo, certain information relative to quarters rented by the Interstate Commerce Commission, giving the location, area of floor space occupied, and the annual rental thereof; which was referred to the Committee on Appropriations, and ordered to be printed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. W. J. BROWNING, its Chief Clerk, announced that the House had agreed to the reports of the committees of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the following bills:

A bill (H. R. 9290) granting a pension to Frances L. Ackley; and

A bill (H. R. 11249) granting an increase of pension to Katharine Rains Paul.

The message also announced that the House had passed a concurrent resolution authorizing the Committee of Conference on the disagreeing votes of the two Houses on the amendments of the Senate to the sundry civil appropriation bill (H. R. 13123)

to consider and recommend the inclusion in that bill of necessary appropriations to carry out the several objects authorized in the act to increase the limit of cost of certain public buildings, etc., approved June 6, 1902, in which it requested the concurrence of the Senate.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House had signed the following enrolled bills; and they were thereupon signed by the President pro tempore:

A bill (S. 259) to establish a light-house and fog-signal station at Semiahmoo Harbor, Gulf of Georgia, Puget Sound, State of Washington;

A bill (S. 312) providing that the circuit court of appeals of the eighth judicial circuit of the United States shall hold at least one term of said court annually in the city of Denver, in the State of Colorado, or in the city of Cheyenne, in the State of Wyoming, on the first Monday in September in each year, and at the city of St. Paul, in the State of Minnesota, on the first Monday in June in each year;

A bill (S. 3800) to grant certain lands to the State of Idaho;

A bill (H. R. 11599) to redivide the district of Alaska into three recording and judicial divisions; and

A bill (H. R. 14380) to authorize the construction of a bridge across the Waccamaw River at Conway, in the State of South Carolina, by Conway and Seashore Railroad Company.

PETITIONS AND MEMORIALS.

Mr. FAIRBANKS presented a petition of Elwood Post, No. 61, Department of Indiana, Grand Army of the Republic, of Elwood, Ind., praying for the passage of a per diem service pension bill; which was referred to the Committee on Pensions.

He also presented the petition of Hollweg and Reese, of Indianapolis, Ind., praying for the adoption of certain amendments to the bankruptcy law; which was referred to the Committee on the Judiciary.

He also presented a petition of Local Union No. 74, United Mine Workers of America, of Clinton, Ind., praying for the passage of the so-called Hoar anti-injunction bill to limit the meaning of the word "conspiracy" and the use of "restraining orders and injunctions" in certain cases, and remonstrating against the passage of any substitute therefor; which was ordered to lie on the table.

He also presented a petition of the Woman's Christian Temperance Union of West Greenwich, R. I., and a petition of the Woman's Christian Temperance Union of Mount Pleasant, R. I., praying for the enactment of legislation to prohibit the sale of intoxicating liquors in immigrant stations; which were referred to the Committee on Immigration.

He also presented a petition of the Diocese of Central Pennsylvania, of Sunbury, Pa., and a petition of the American Laryngological Association, praying for the enactment of legislation to establish a laboratory for the study of the criminal, pauper, and defective classes; which were referred to the Committee on Education and Labor.

Mr. MASON presented petitions of the Western Avenue Baptist Church, of the Woman's Christian Temperance Union of Dekalb County, of the Woman's Christian Temperance Union of Dupage County, of the Woman's Christian Temperance Union of Schuyler County, and of the Presbyterian Missionary Society of Shelbyville, all in the State of Illinois, praying for the enactment of legislation to prohibit the sale of intoxicating liquors at immigrant stations; which were referred to the Committee on Immigration.

Mr. BURTON presented resolutions adopted by the Southern Kansas Millers' Club, of Wichita, Kans., favoring the ratification of certain reciprocity treaties; which were referred to the Committee on Foreign Relations.

Mr. FRYE presented a petition of the Central Labor Union of Portland, Me., praying for the enactment of legislation fixing eight hours as a day's labor for employees in the navy-yards of the country, and also praying for the enactment of legislation providing an educational test for immigrants to this country; which was referred to the Committee on Naval Affairs.

He also presented a petition of Tabasco Council, No. 29, Junior Order of United American Mechanics, of Berwick, Me., praying for the enactment of legislation providing an educational test for immigrants to this country; which was referred to the Committee on Immigration.

REPORT OF A COMMITTEE.

Mr. GAMBLE, from the Committee on Indian Affairs, to whom was referred the bill (S. 2991) for the relief of F. C. Boucher, reported it with an amendment, and submitted a report thereon.

BILLS INTRODUCED.

Mr. FRYE introduced a bill (S. 6101) granting an increase of pension to Reuben Andrews; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

Mr. FAIRBANKS introduced a bill (S. 6102) granting an increase of pension to Joseph Kibble; which was read twice by its title, and referred to the Committee on Pensions.

Mr. MASON (by request) introduced a bill (S. 6103) for the relief of the heirs of Margaret Kennedy; which was read twice by its title, and referred to the Committee on Appropriations.

Mr. BATE introduced a bill (S. 6104) to restore to the active list of the Navy the name of John Walton Ross; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Naval Affairs.

Mr. SIMMONS introduced a bill (S. 6105) for the relief of the heirs of Cicero M. Davis; which was read twice by its title, and referred to the Committee on Claims.

He also introduced a bill (S. 6106) for the purchase of real estate for revenue and customs purposes, at Wilmington, N. C.; which was read twice by its title, and referred to the Committee on Public Buildings and Grounds.

Mr. PLATT of Connecticut (for Mr. HAWLEY) introduced a bill (S. 6107) granting an increase of pension to Hattie Connell; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

AMENDMENT TO NAVAL APPROPRIATION BILL.

Mr. PERKINS (for Mr. PENROSE) submitted an amendment proposing to appropriate $300,000 for the construction of a torpedo-boat destroyer with Richard B. Painton's electrical system of multiple screw propellers and electrical rudder-steering gear apparatus, etc., intended to be proposed to the naval appropriation bill; which was referred to the Committee on Naval Affairs, and ordered to be printed.

ISTHMIAN CANAL.

Mr. FAIRBANKS. I wish to give notice that after the routine morning business on Wednesday next I will address the Senate on the unfinished business, being the bill (H. R. 3110) to provide for the construction of a canal connecting the waters of the Atlantic and Pacific oceans.

OVERHEAD ELECTRIC WIRES IN THE DISTRICT OF COLUMBIA.

Mr. GALLINGER. At the request of the Senator from Michigan [Mr. MCMILLAN], chairman of the Committee on the District of Columbia, I move that the joint resolution (S. R. 84) to permit the erection and use for lighting purposes of overhead electric wires outside of the fire limits, east of Rock Creek, District of Columbia, be recommitted to the Committee on the District of Columbia.

The motion was agreed to.

ORDER OF BUSINESS.

The PRESIDENT pro tempore. If there is no further morning business the Calendar under Rule VIII is in order.

Mr. NELSON. I move that the Senate proceed to the consideration of Senate bill 1792, of which I gave notice yesterday.

Mr. DEPEW. I gave notice that I would address the Senate in a few remarks this morning, immediately after the routine morning business, on Senate bill 492, and I will now ask for that privilege.

Mr. NELSON. On what bill?

Mr. DEPEW. On the bill for the purchase of a national forest reserve in the Southern Appalachian Mountains.

The PRESIDENT pro tempore. Does the Senator from Minnesota withdraw his motion?

Mr. NELSON. If the Senator from New York wants to go on, I shall not insist on my motion.

Mr. DEPEW. I do not want to be deprived of my privilege of delivering a speech, as I have to leave the city.

Mr. NELSON. My bill is one relating to the London dock clause.

Mr. DEPEW. It will take some time?

Mr. NELSON. It will take some time.

The PRESIDENT pro tempore. The Senator from New York will proceed.

NATIONAL APPALACHIAN FOREST RESERVE.

Mr. DEPEW. Mr. President, Senate bill 5228, for the purchase of a national forest reserve in the Southern Appalachian Mountains, to be known as the "National Appalachian Forest Reserve," has been carefully examined and received a unanimously favorable report from the Committee on Forest Reservations and the Protection of Game.

As a member of that committee, I was deeply impressed with the testimony presented. The results of the investigation were so convincing and satisfactory that legislation seemed to the committee to be imperative.

President Roosevelt in his message to the present Congress under date of December 19, 1901, says:

I heartily commend this measure to the favorable consideration of the Congress.

The Secretary of Agriculture, Hon. James Wilson, in his report to Congress of the same date, says:

The agricultural resources of the Southern Appalachian region must be protected and preserved. To that end the preservation of the forests is an indispensable condition, which will lead not to the reduction, but to the increase, of the yield of agricultural products.

The preservation of the forests, of the streams, and of the agricultural interests here described, can be successfully accomplished only by the purchase and creation of a national forest reserve.

The States of the Southern Appalachian region own little or no land, and their revenues are inadequate to carry out the plan. Federal action is obviously necessary, is fully justified by reasons of public necessity, and may be expected to have most fortunate results.

Nature has been so prodigal in her gifts of forests to the United States that the important question of their preservation has been neglected too long. The attacks of the settlers upon the woods for clearings and a home have been indiscriminate and wasteful in the extreme. The settlers are not to blame, nor are the lumbermen. The destruction which has been going on with such frightfully increasing rapidity during the last fifty years is due to a lack of that governmental supervision in the interest of the whole people which can only come from education and experience. The lumberman wishes to realize at once upon his purchase, and as a rule vast fortunes are made in deforesting the land. Railroads are run into the woods, all the appliances of modern inventions and machinery are at work, and this magnificent inheritance is being squandered with a rapidity which is full of peril for the future.

Intelligent conservation of the forests of a country is the highest evidence of its civilization. The climate, the soil, the productive capacity of the farm, the equability of the rainfall and the beneficent flow of the streams are all dependent upon the science of forestry. We have wisely set apart already in the West 41 national forest reserves—about 46,000,000 acres. One of them is already paying expenses and yielding a slight revenue.

The experience of the older countries of the world is of great value in this investigation. Forestry has been practiced in Germany for hundreds of years. Except for this wise and thoughtful care by the Government, the fatherland would be wholly unable to sustain its crowded population. Twenty-six per cent of the land of that country is in forests, of which the Government owns two-thirds. We have left in our own country only 26 per cent of our territory in woods. Germany has special schools of forestry for the education of her youth in this science. The young forester is taught all that books and lectures can give, and then is placed in a course of from three to seven years in the practical application of his work and personal study upon the ground. In that way he becomes fitted for his career. The Government not only cares for its own forests, but it brings under its supervision, laws, and rules those of private owners.

In France 17 per cent of the country is in the forest, of which the Government owns one-ninth. The ruin caused by floods and by the drying up of streams from deforesting the mountain sides led one of the ablest statesmen of France, Colbert, during the reign of Louis XIV, in 1669, to prepare and put in force a code of forest laws. Under this code, as perfected, all the forests in France, whether owned by the Government, by communes, or by individuals, are under the direct supervision and control of the department of agriculture.

The same is true in Italy, in Switzerland, and in Austria. European Governments are going still further in the line of forest preservation. The Italian Government found that their valley farms were being destroyed by the floods which in the rainy season poured down from their deforested mountain slopes. They came to the conclusion that it would be true economy for Italy to reforest these hills. They have arranged for the expenditure of $12,000,000, and this reforests only 500,000 acres. France, feeling the same disastrous effects upon her agriculture and from the same cause, expended $12,000,000 in the reforesting of 800,000 acres, and has made arrangements for the expenditure of $28,000,000 more to complete her plan. It costs for this reforesting $24 an acre in Italy and $50 an acre in France. Notwithstanding this large expenditure, it will be a half a century before the full benefit of the reforesting can be felt. It will be many generations before the soil in the woods will have acquired that quality of absorption and retention of the water which makes it both a reservoir and a protection for the farms below.

The proposition before us is not to reforest at $24 an acre, as in Italy, or at $50 an acre, as in France, but at an expense of about $2 an acre to preserve the forests which have been forming for over a thousand years in trees and soil. Scientific forestry in Germany, France, and Italy gathers an annual crop from the trees which have reached the point where they are commercially valuable and can be cut, not only without injury to, but, on the contrary, for the benefit of the whole forest, of from $1 to $5 an acre per year net, after paying all the expenses of their care.

There are many villages in Germany which pay all their taxes from the revenue derived annually from forests which they own, while other communities which sold or deforested their common lands have poor lands and are pauperized by their burdens.

Switzerland presents for our mountain regions a remarkable illustration of the necessity as well as of the benefit of forest culture. The Swiss discovered centuries ago that with the deforesting of their steep mountain sides after every rainfall the soil was washed down into the valleys and ran off in the streams and that their country was likely to become a desert. They were the pioneers in this industry of industries. As early as the beginning of 1300 they had a complete system of forest preservation and control. In the six hundred years of which they have had the records they have brought their system to such perfection that the Swiss forests not only are the salvation of Swiss agriculture, both on the hillsides and in the valleys, but they yield net to the Government $8 per acre a year. It is a form of revenue which is not subject to accidents, but can be realized upon with absolute certainty under all circumstances. Forests under such conditions are a perpetual and increasing mine of wealth to the Government on the one hand and to the whole people on the other in their influence upon farms and harvests and upon industries.

While 46,000,000 acres of land have been rescued to the West, there has been nothing done in the East. The country had a superb property, unique in every way, unequaled for richness and rarity and for the value of its product, in the redwood forests of the Pacific slope. Through carelessness simply Congress yielded to the shrewd representations of the speculator, who under that homestead plea, which is properly so attractive to the American, secured the enactment of laws by which any settler could secure 160 acres in these forests of priceless value. Then came the harvest of the lumbermen. Each of their employees staked out 160 acres. The sailors upon the vessels that carried off their lumber were induced to make claims for their 160 acres each, and the land was then transferred to the lumber companies, until, for a mere song, this magnificent inheritance of the people fell into the hands of different corporations who are mercilessly destroying the timber.

Negligence of this kind on the part of Congress becomes almost a crime. Those wonderful woods should have been preserved not for speculators and bogus settlers, but for the whole people of the country. They would, under scientific forest management, have been for all time to come not only self-supporting and revenue producing, they would have been more—they would have been the source of supplies of wood for all purposes for the inhabitants of the Pacific coast. They would have been additions to the rural scenery, which in every State and country, when attractive, helps culture and civilization. They would have been the home of game, where sportsmen could have found health and pleasure. But, instead, the land will become an arid waste, the streams will dry up, and the country will lose not only one of its best possessions, but there will be inflicted incalculable damage upon a vast region which otherwise would have remained always full of happy homes and cultivated farms.

The Appalachian forest reserve as proposed in the pending measure is about 150 miles in length and of varying breadth. It is from 400 to 600 feet above the sea. It runs through the States of Virginia, West Virginia, North and South Carolina, Georgia, Alabama, and Tennessee. The slopes of these mountains are very steep, varying from 20 degrees at the lowest to 40 degrees. The waters which flow from the perpetual streams, fed by the perpetual springs, run on the one side to the Atlantic and on the other to the Gulf of Mexico. The streams from this mountain forest are the tributaries of these important rivers: The James, the Roanoke, the Catawba, the Savannah, the New (Kanawha), the Tennessee, the French Broad, the Coosa, the Yadkin, the Chattahoochee, the Broad, the Hiwassee, the Nolichucky, the Pigeon, the Tuckasegee, the Watauga, and the Holston. The region affected by these streams is from 100 to 150 miles in width on the Atlantic side, and more than that on the other. It comprises part of the richest agricultural country in the United States. The timber in this forest is all hard wood, and is the largest body of hard wood on the North American Continent. It is a museum of forest growth, embracing, on account of its location, the woods which can be grown in temperate, semitropical, and tropical countries. There are 137 varieties, making this forest one of the most interesting in the world. The deep soil has been forming for a thousand years or more, and in its interlacing of tree roots and humus, of grass and leaves, there has been created an enormous sponge for the absorption, retention, and distribution of the rainfall.

The rainfall in this region is greater than in any other part of the United States except the North Pacific coast. It ranges from 60 to 100 inches a year. The downpour at one time during the past year was 30 inches. Where the forests are intact the water finds its way through this thick and porous soil, goes into the crevices of the rocks and into the gulches and forms springs and rivulets. Nature, always beneficent in her operation, so arranges this vast collection of the rainy season that during the rest of the

year it flows out naturally and equably through the rivulets into the streams and through the streams into the rivers, and waters and fertilizes half a dozen States.

The results of an attack upon this fortress, created by nature for the protection and enrichment of the people, is more disastrous than the sweep of an invading army of savages over a thickly populated and fertile country. They kill, they carry off captives, they burn and they destroy, but after the war the survivors return to their homes and in a few years every vestige of the ruin has disappeared. In its place there are again cities, villages, and happy people. But the lumberman selects a tract of hard-wood forests upon the Appalachian Mountains. The trees, young and old, big and little, surrender to the ax and the saw. Then the soil is sold to the farmer, who finds abundant harvests in its primeval richness. For about three years he gathers a remunerative and satisfactory harvest, but he sees, as the enormous rainfall descends, his farm gradually disappear. At the end of three years he can no longer plant crops, but for two years more, if lucky, he may be able to graze his stock. At the end of five years the rains and floods have washed clean the mountain sides, have left nothing but the bare rocks, have reduced his farm to a desert, and created a ruin which can never be repaired.

But this is not all. That farm has gone down with the torrents, which have been formed by the cutting off of the protecting woods, into the streams below. It has caused them to spread over the farms of the valleys and plateaus. It has turned these peaceful waters into roaring floods, which have plowed deep and destructive gullies through fertile fields and across grassy plains. One freshet in the Catawba River last spring, occasioned wholly by the deforesting of the mountains, swept away a million and a half dollars' worth of farms, buildings, and stock. The damage done by the freshet of last year alone, in the large territory fed by the streams and rivers which came from these mountains, was estimated at over $18,000,000.

This destruction can not be repeated many years without turning into a desert the fairest portion of our country. This process of destruction is constantly enlarging because of encroachments upon the forests on account of the growing scarcity of hard wood. The lumbermen are running light railways so as to reach the heretofore inaccessible depths. The giants of the mountains, which are four or five hundred years of age, and many of them 7 feet in diameter and from 140 to 150 feet high, are falling in increasing numbers every month before the pitiless and ruthless invasion of the ax and the saw. In ten years the destruction will be complete, the forests will be practically gone, the protecting soil will have been washed off the hillsides, and the newspapers will be filled each year with tales of disaster to populations, to farms, to villages, and to manufacturing enterprises, occasioned by unusual and extraordinary rains and the torrents which have been formed by them and flowed down through the valleys.

It has been estimated that there is in these mountain streams 1,000,000 horsepower which can be easily utilized. This means a saving of $30,000,000 a year in coal alone, which would otherwise have to be used for the generation of that amount of power for manufacturing purposes. But it means more. This 1,000,000 horsepower that these streams, which flow equably all the year round because of the nature of the sponge which forms the reservoir that supplies them, would create an incalculable amount of electrical power. With the successful demonstrations which have been made in California and Niagara Falls of the distance to which this energy can be transmitted, the value of these streams, kept in their original condition, to the future of these States can not be estimated. There are in these conditions all the elements necessary for transportation, for light and heat, for manufactures and mining, in a very large section of the United States.

The proposition in the bill is to authorize the Secretary of Agriculture, at an expense not exceeding $10,000,000, to purchase 4,000,000 acres of these forests. They are held now in large tracts of from 1,000 to 5,000 acres. They are being rapidly bought up by lumber companies at from $1.50 to $2 an acre. The owners, as I am informed, would much perfer selling them to the Government than to individuals or corporations. The reason is obvious. It is estimated by the Department of Agriculture that within five years the forests would be self-sustaining, and after that a source of increasing revenue for all time to come. It is impossible for the States to undertake this work. New York, in order to protect the Hudson and Mohawk, has been purchasing a large domain through the Adirondack forests which she proposes adding to every year. This is possible because the whole territory is within the limits of the State of New York. But in the Appalachian region one State can not buy the forest sources of the streams because they are in another State. The State which has the forests can not be expected to go to the expense of protecting them in order to preserve the streams and agriculture and industries of adjoining Commonwealths.

The Government does much in many ways to create wealth for the people. Every river and harbor bill carries with it millions of dollars to create wealth by dredging harbors, rivers, and streams. The irrigation propositions which are always before us and some of which have passed the Senate are also for the creation of wealth by making fertile the lands which have always lain arid. Here, however, is a proposition not for the creation of wealth, but for its preservation. This is a scheme not for many local improvements like the $70,000,000 public buildings bill or the $70,000,000 river and harbor bill, or the innumerable other bills which we pass for localities, but it is a public and beneficent measure to keep for future generations in many States and over a large area the productive energies which nature has stored for the comfort, the living, and the happiness of large populations, and for the wealth of the whole country.

It differs from all other schemes of governmental aid in another way. The advantages derived by the Government from the improvement of rivers and harbors is incidental and indirect. The same is true of irrigation, of public buildings, and public expenditures of every kind; but in this broad and beneficent scheme the Government protects its people by entering upon a business impossible for States or individuals, and which no machinery but that of the Government can carry on, and which the experience of other countries has demonstrated will prove a source of perpetual revenue.

We have been the happy possessors of such extensive forest territories that we have not yet, like other nations, felt the poverty of wood. There has not been brought home to us how dependent we are upon it for all purposes in our domestic, home, and business life. It would be little short of a national calamity if we should feel acutely the loss of our wood. That this will occur, and wood become so high as to make it a luxury, is certain if this forest denudation goes on. From the cottage of the poor man and the home and outbuildings of the farmer to the highly polished woods whose artistic graining ornaments the palaces of the rich, this wise provision of nature is our necessity. We can only keep these hard woods, which every year are becoming scarcer and more costly, within reasonable reach of the demands of the people by the Government entering upon this process of scientific forestry. Instead of this 150 miles of hard-wood forests being destroyed, as they will be in ten years unless measures are taken for their preservation, they would under this scheme last forever, and yield annually a harvest for the uses of the people. A few corporations or individuals may accumulate in a short time large fortunes by deforesting, fortunes which will disappear in a generation or two, but wise ownership, preservation, and administration by the Government will give employment, property, industries, and homes to multitudes for all time.

To sum up briefly, then, this is a work which only can be done by the Government of the United States. It should be done by the Government because it interests many States and in a large way the people of the whole country. It preserves the hard-wood forests and their product for future generations. It keeps upon the hills and mountain sides the woods whose influence upon climate, soil, and rainfall is most beneficial to a vast territory. It prevents mountain torrents, which will in time, as the destruction of the forests goes on, turn a large agricultural region into a desert. It conserves for manufacturing purposes that enormous water power which will be utilized for a multitude of industries which will give employment to thousands and add enormously to the wealth of the country. Instead of being an expense and a drain—and it would be the best expense which the Government could make if that was necessary—it will be one of those beneficent improvements which will shed blessings everywhere, and at the same time be self-sustaining and a source of everlasting revenue to the Government.

Mr. NELSON rose.

Mr. HALE. Mr. President, before the Senate proceeds to consider any other matter, I wish the Senator from New York would tell us, after we have had the positive delight of listening to the rhythmic flow of his eloquence, what is the practical plan he has in view to accomplish the very great object upon which he has spoken.

Mr. DEPEW. I am very much obliged to my friend the Senator from Maine for asking that question.

There is a bill brought in by the Committee on Forest Reservations and the Protection of Game, unanimously reported after an exhaustive consideration, which provides the plan for the accomplishment of this result. It proposes to give to the Secretary of Agriculture the right to purchase a reservation upon the Southern Appalachian Mountains, and appropriates $10,000,000 for that purpose, to be used as the scheme is perfected and the purchases are made.

The testimony before the committee was that these forests now lie in one body; that the invasion upon them so far by farmers and settlers has been very slight; that they are all in the market

for sale, and that without any doubt the whole of the 4,000,000 acres can be purchased for $10,000,000.

Mr. HALE. Making a great public governmental reservation.

Mr. DEPEW. It makes a great public governmental reservation, the same kind as the 41 forest reservations that we already have in the new States.

Mr. HALE. I do not think that anyone listening to the Senator can fail to have been impressed with the very great importance of this subject as he has presented it. Business is so diversified here, and as pretty much every one of us is devoting his time and attention to special purposes and objects, I was not aware of the extent of the scheme proposed by the bill. Something ought to be done about it at the present session. The very thing that is going on, the ravage of this region, which will, as the Senator says, make it a desert in ten years, ought to be arrested, and at no distant day.

I hope if the Senator is not here other Senators upon the committee will see to it that the bill which he has explained to us is brought before the Senate and that the Senate will properly appreciate the purpose and the work, so that we may embark on this most important enterprise of the Government to save that great forest region.

Mr. PRITCHARD. Mr. President, I had intended to ask for a vote on the measure at this time, but owing to the absence of my colleague [Mr. SIMMONS], who desires to submit some remarks in respect to the measure, I give notice that I shall call it up some time next week, in order that we may have a vote upon the question.

Mr. HALE. I hope the Senator will do that.

Mr. PRITCHARD. The matter has been thoroughly investigated by the Agricultural Department and the bill has the favorable recommendation of that Department, as well as of the President of the United States.

LONDON DOCK CHARGES.

Mr. NELSON. I move that the Senate proceed to the consideration of the bill (S. 1792) to amend an act entitled "An act relating to navigation of vessels, bills of lading, and to certain obligations, duties, and rights in connection with the carriage of property," and I ask unanimous consent that it may be considered without the limitation of debate imposed by the eighth rule.

The PRESIDENT pro tempore. The question is on agreeing to the motion of the Senator from Minnesota.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill.

The PRESIDENT pro tempore. The Senator from Minnesota asks unanimous consent that the limitation on debate under rule 8 may be dispensed with during the consideration of this bill. Is there objection? The Chair hears none. The bill will be read.

Mr. NELSON. I ask unanimous consent that the formal reading of the bill be dispensed with; and before taking up the bill and reading it for amendment, I desire to make a brief statement in explanation of the merits of the measure.

Mr. HALE. Before the Senator from Minnesota goes on, I wish to inquire whether an amendment to his bill, which was proposed by the Senator from Massachusetts [Mr. LODGE], has been offered or only notice of it was given?

The PRESIDENT pro tempore. The memory of the Chair is that it was printed and laid on the table, and it will be necessary to offer it as an amendment.

Mr. HALE. I shall see to it, then, in the absence of the Senator from Massachusetts, that the amendment is offered. I did not know but that it was already pending.

Mr. NELSON. Mr. President, I desire briefly to explain the merits of the bill.

The object of the proposed bill is to relieve the shippers of American products in this country from certain burdens and charges imposed by a combination of steamship companies plying in the North Atlantic trade in respect to the products shipped to the port of London.

Before I go into a discussion of the case, in order that the Senate may understand some of the quotations, I desire to state that at the close of the last session the millers of Minneapolis called my attention to the evils complained of, the injustice imposed upon American shippers by the steamship companies in forcing them to accept bills of lading incorporating what is known as the London clause, a clause charging them a certain specific amount for the discharging of their goods at the port of London.

The millers called my attention, as I said, to that subject at the close of the last session. It was too late then to take it up. I afterwards, in order to obtain full information in the premises, referred the matter to the State Department, with the request that the Department get our minister in England to investigate the whole subject. The Department referred it to our minister, Mr. Choate, who made a careful and thorough investigation and submitted an extensive report both upon the law and the facts to Congress.

Prior to 1893 the shipping companies plying in the north Atlantic trade had been in the habit of incorporating clauses into their bills of lading exempting them from all liability for the negligence of their servants and masters in stowing and conveying the cargo; in fact, exonerating them from all liability, no matter in what shape they stowed the cargo, no matter in what shape they carried it, and no matter in what shape they delivered it. The evil became so great that finally the American shippers, in 1893, applied to Congress for relief, and there was passed what is commonly known as the Harter Act.

The first section of that act provides:

> That it shall not be lawful for the manager, agent, master, or owner of any vessel transporting merchandise or property from or between ports of the United States and foreign ports to insert in any bill of lading or shipping document any clause, covenant, or agreement whereby it, he, or they shall be relieved from liability for loss or damage arising from negligence, fault, or failure in proper loading, stowage, custody, care, or proper delivery of any and all lawful merchandise or property committed to its or their charge. Any and all words or clauses of such import inserted in bills of lading or shipping receipts shall be null and void and of no effect.

Section 2 is on the same lines, and I shall not take up the time of the Senate to read it.

The evils then complained of were remedied by this act. Up to that time the steamship companies had been in the habit of forcing upon American shippers bills of lading with clauses that exonerated them from liability, and this law was intended to relieve them from that onus and to prohibit the insertion of any such clauses.

Since that time the steamship companies having vessels plying in the North Atlantic trade, between our country and the port of London, have formed a combination and compelled American shippers to accept bills of lading incorporating what is known as the London clause. The London clause is a clause compelling shippers to pay, in addition to the ordinary and usual freight charges, a certain specific sum for the unloading and delivery of the cargo in the port of London. Under the law and custom prevailing in the port of London all goods are entitled to free delivery.

In order that Senators may fully understand the question, I will say that the river Thames is a great big tide-water stream which flows through the heart of the city of London, and over 76 per cent of the goods that are delivered from the steamship companies on the docks are again put back from the docks into lighters and barges that ply on the river and are distributed to the various localities along the wharves by those lighters, so as to be delivered throughout the city.

By the custom of the port of London, by the common law of the port, and also by the act of Parliament, the consignees of goods are entitled to free delivery of the goods overside in the port of London, delivered on board barges and lighters direct overside from the vessel.

I will read you a few sentences from Minister Choate's report, showing you what the law is and what the act of Parliament is governing the port of London. This is the history of the matter:

> Prior to the formation of docks in London, about a century ago, the usual mode of discharging cargo was overside into barges or lighters in midstream, the barges carrying it to the wharves and quays.
>
> The formation of docks was stoutly opposed by the powerful association of bargemen or watermen, and to save their rights and the powerful interest represented by their business, which was of great antiquity, a clause was inserted in the original and in each succeeding dock charter in substance exempting all lighters and craft entering the docks to discharge or receive goods to or from any vessel from the payment of any rates, and that the goods so discharged or received should be exempt from any payment whatever, and so the law now stands. This secured to the bargemen and to the owners of cargo the ancient right to the loading and discharge of cargo overside, even in the docks, without any charge by the dock companies.

In other words, before the docks were established the consignees of goods were entitled to the free delivery of their goods overside the ship directly into lighters. When the dock companies were incorporated, that right was still reserved; that right was still retained; the consignees were still entitled to the free delivery of goods even if the goods were placed on the dock and from the dock put back into lighters.

In 1894—to make the question still clearer and to settle it—an act of Parliament was passed. I will read one provision of the act bearing on this matter, and ask the attention of the Senate to it:

> (4) If any goods are, for the purpose of convenience in assorting the same, landed at the wharf where the ship is discharged, and the owner of the goods at the time of that landing has made entry and is ready and offers to take delivery thereof, and to convey the same to some other wharf or warehouse, the goods shall be assorted at landing, and shall, if demanded, be delivered to the owner thereof within twenty-four hours after assortment, and the expense of and consequent upon that landing and assortment shall be borne by the shipowner.

That is the law to-day in the port of London; that is, the consignees of goods are entitled to free delivery overside from the ship into barges and lighters. But if the shipowners, for their convenience in assorting their cargo and distributing it, see fit to take it first out of the ships onto the dock, the consignees are still entitled to the delivery of those goods from the dock into lighters or barges free of charge.

It is a curious thing about the port of London, different from any other port that I know of, that over 76 per cent—and this report and the statistics show it to be over 76 per cent—of all the

goods that are discharged from steamers to the docks and wharves are simply discharged for the purpose of assorting, and are put back into the barges and lighters for distribution and delivery throughout the city.

The steamship companies, for their own convenience in discharging a cargo, especially in the case of mixed cargoes, can assort them better and more easily by having dock space on the quay for this purpose and to get access to the ships with the goods to be sent abroad, they require dock space for their own convenience. They have seen fit, instead of distributing and delivering the goods directly overside into lighters and barges, to place them on the dock and then from the dock back again into the barges and lighters. Over 76 per cent of the goods are thus placed on the dock for delivery to lighters. All this charge was borne by the shipowners up to 1888. At that time the steamship companies began to insert in their bills of lading from this country to the port of London what was known as the London dock clause.

Mr. FAIRBANKS. Will the Senator allow me to ask him a question?

Mr. NELSON. Certainly.

Mr. FAIRBANKS. I ask the Senator if he knows whether the same rule prevails with reference to the commerce from other countries.

Mr. NELSON. I am coming to that later on. The only products that enter the port of London to-day in steamships that have to bear the burden of the London clause are goods in ships from North America; and I shall show from Mr. Choate's report that that is the fact.

Mr. HALE. The Senator does not claim that as to other countries from which shipments are made by transportation companies, in no case is the London dock clause resorted to?

Mr. NELSON. That is what I claim, as the evidence and the report of Mr. Choate show.

Mr. JONES of Arkansas. It is impossible to hear on this side of the Chamber what is going on, owing to the low voice in which Senators are speaking.

Mr. FAIRBANKS. Do I understand that this is a discrimination against the United States?

Mr. NELSON. This is a discrimination against the United States, and I shall prove it by the report. I call the attention of the Senator to the fact that the only case in which it is applied is in what are known as American bills of lading. The steamship companies having vessels plying in the North Atlantic trade between our ports and the port of London have inserted this London clause, and it is not found in the case of any other transportation companies, and ours are the only products subject to that charge in the port of London.

Mr. HALE. I think the Senator is mistaken about that.

Mr. NELSON. If the Senator will allow me, I will call the attention of Senators to page 9 of the report:

> These charges of the "London clause" are a pure discrimination against the American trade, and do not apply to any other trade in the port of London.

That is the language used by me in the report. Now, I read a quotation from what appears in the hearings before the committee:

> This charge of 1s. 6d. to 2s. 6d. is one which penalizes American goods, as it is not applied in the port of London to goods arriving from any other market; in other words, flour from Russia, the Cape, Australia, or in fact any other market except North America, does not pay this charge, and to that extent American goods of all descriptions (for flour is only one of these) are penalized by this charge. (Hearings, p. 87.)

I will now read from Mr. Choate's report. He says:

> There is undoubtedly a discrimination as against flour from the United States and Canada in favor of flour coming to London from all other parts of the world. Flour is brought to London from many other parts of the world, and is landed and delivered from large steamers in much the same way, and whatever cost attaches to this mode of delivery is paid by the shipowners out of the freight, no such clause as the "London clause" having been adopted. (Choate, p. 7.)

I read further from Mr. Choate:

> Canadian and American flour is by far the largest import of flour into London, and although other imported flour, such as Hungarian, French, Russian, Australian, Californian, gets free overside delivery, Canadian and American flour is subjected to the "London clause," and besides which, whereas the charge for landing at an uptown warehouse for the purpose of distribution in Canadian and American is 4s. per ton, the charge on other imported flour is 3s. 6d. per ton, so that Canadian and American costs 2s. per ton more to land than other flour. (Choate, p. 33.)

When this London dock clause was first inserted in their bills of lading, for the first two years the steamship companies hired the dock companies to do the discharging of the cargo; and at that time—I will give you as an example one commodity, that of flour—at that time the steamship companies paid the dock companies 10d., equal to 20 cents in our money, for discharging flour—that is, discharging it from the vessel onto the dock and from the dock back on the barges and lighters. In 1891 the steamship companies took that labor away from the dock companies, and instead of hiring the dock companies to do it they did it themselves, and immediately they advanced the rates. For instance, upon flour they advanced the rate from 10d. a ton to 1s. 2d. a ton, an increase of 4d., or 8 cents, a ton. There is a good deal of profit in these dock charges. The representatives of the steamship companies appearing before our committee denied that, but the facts are against them. I will read this brief statement from the report:

> Although the shipowners, through their representatives, at the hearing denied, but not under oath, that there was any profit to them in these charges, there is a preponderance of evidence the other way, showing that there is quite a margin of profit. From 1888, when the "London clause" was first adopted, until 1891, the cargoes were discharged by the dock companies, who, in the case of flour, for instance, only charged the shipowners 10 pence per ton for the service, for which the shipowners now charge 1 shilling 9 pence per ton.

That is what was charged. They started out when they first undertook the work at 10 pence per ton, and they advanced it to 1 shilling 9 pence per ton.

> In the next place the testimony, under oath, of Mr. Scott, chairman of the dock company, which performed the work for the shipowners for two years under the "London clause," is clear and positive on this point:
>
> "This profit is supposed to be considerable, and is, of course, a fixed quantity unaffected by the fluctuation of freight. We may mention that the supposition that there is a considerable profit hanging to the charges made for the work done under the 'London clause' was recently confirmed by Mr. Charles J. C. Scott, the chairman of the London and India Docks Company, the company who actually performed this work for the shipowners during the first two years of the 'London clause,' and who should be an indisputable authority.
>
> "When giving evidence before the royal commission on the port of London, on May 6, 1901, Mr. Scott says, in reply to Sir John Wolfe Barry:
>
> "Q. 5657. Under the conditions of the North American trade, the shipowner has done his work when he puts the cargo on the quay?
>
> "A. Yes; but the shipowner, under the North American bill of lading, by his bill of lading is entitled to make a charge for doing that, and there is a considerable amount of profit hanging onto that, so that the shipowner is anxious to put it on the quay.
>
> "(Choate, p. 16, and Hearings, p. 69.)"

The original London dock clause was a very small and brief one. The charge was quite limited when it was adopted, in 1888, but from time to time they have advanced it, until now they have a multitude of conditions. It started with a little paragraph of a dozen lines, and now they have got a paragraph of several hundred lines, incorporating all manner of conditions. They even charge for commodities in cases where the delivery is just the same as under the old system. Take wheat, or oats, or corn, or barley, or other coarse grain which is shipped in bulk, which is not delivered on the dock at all, but is delivered directly from the ship into the lighter—even on those products in this London dock clause they have incorporated a charge in addition of 1s. 9d. They charge on wheat an additional 7d., making it fully 2s. 4d. for discharging it overside from the ship into the lighter or barge.

One of the arguments advanced by the shipowners was that it was for the convenience of the consignee to have the goods delivered at the dock, and from the dock back into the lighter. That is not true. The evidence presented to the committee, which appears in the hearings—and if necessary I will call the attention of Senators to it—shows that it is for the convenience of the steamship companies rather than that of the consignees or shippers, and I will explain why. Under the old system, where they had direct delivery from the ship overside into the lighter or the barge, as soon as the lighter or barge was filled it could go away and deliver the goods; but under the present system the ship discharges the cargo on the dock; it remains there to be assorted and delivered back onto the ship, and from the ship onto the lighter or barge; but before that can be done, oftentimes when a ship has been there and discharged, as soon as it gets through and before the barge or lighter can come up and take the goods away, another ship is alongside the dock; and so it comes to pass that under the present system oftentimes the barges are delayed from day to day before they can approach the dock and get the goods to take away and deliver them.

This London dock clause charge is in addition to the dock charges imposed by the dock company. If goods after landing on the dock are left to be distributed from the dock by carts or land carriages, then the dock company imposes a charge in addition of from 3 shillings and 6 pence a ton to 5 shillings per ton; but if the goods are delivered back from the wharves into the barges and lighters the consignee is not obliged to pay this charge. Under the London clause as it exists to-day if a cargo of flour is shipped from New York to the port of London when it enters that port under the London clause it has to pay 1 shilling and 9 pence to the steamship companies for discharging the cargo from the vessel; and if the flour is left on the dock to be carried away by cart or distributed by land conveyance in any shape they have to pay in addition a dock charge of, I think, 3 shillings and 6 pence or 4 shillings per ton. This is denied by the representatives of the company, but we had positive evidence on that point, and I beg leave to read it to the Senate—a letter addressed to me by Mr. Bradley. It is as follows:

> ROOM 18, 58 WILLIAM STREET, NEW YORK, U. S. A., *April 5, 1902.*
>
> Hon. KNUTE NELSON,
>
> *United States Senate, Washington, D. C.*
>
> DEAR SIR: You will remember that I made a statement in the committee that the London landing charge applied on all flour going into the port of London, whether it was delivered directly to the buyer or went on storage

on the docks. You will also remember that the steamship company contradicted this, stating that when flour went on storage charges that the 1 shilling 9 pence was refunded. For your information I now inclose a certificate of a notary public of New York City confirming my statement, this gentleman having made an official examination of the tariffs. You will therefore see that this bears out my statement in full detail.

Yours, very truly,

H. BRADLEY.

STATE OF NEW YORK, *County of New York, ss:*

I, Frederic H. Cohoon, of New York, hereby certify that I have examined an official copy of the tariff sheet issued by the London and India Docks Company, dated at Dock House, 109 Leadenhall street, London, E. C., March 1, 1901, which contains a list of all the quay rates and storage charges, etc., and such examination contains absolute evidence that all flour landed in London, whether it goes on storage charges or is delivered directly to the importers, is subject to a landing charge as contained in the bills of lading, and that the said list of rates at the commencement of same contained the following clause:

"The following rates are exclusive of the charge payable by the consignees under the London clauses in the American bills of lading, but include insurance against fire in accordance with the policies of the fire insurance offices."

I am further advised that the above clause, including charges as previously made, was approved and unaltered January 1, 1902.

Witness my hand this 5th day of April, 1902.

[SEAL.] F. H. COHOON,

Notary Public, New York County, N. Y.

So I want Senators to bear in mind that this charge incorporated into bills of lading, known as the London dock clause, is simply to pay the steamship companies for discharging a cargo. Under the common law and under the act of Parliament it is their duty to discharge that cargo overside free into barges and lighters; but for their own convenience they see fit to discharge it first onto the dock and then place it back in barges and lighters, and for that service they impose a charge, which they have no right to make, upon all American shippers or the consignees of goods, and that charge is in addition, supplementary to, and outside of the charges of the dock company.

There is no dispute but what the American shippers are utterly helpless, for when they deliver their flour, for instance, at Minneapolis—and the same applies to any American product—lumber, wheat, or anything else—when it is delivered to a railroad company for shipment abroad, the railroad company, knowing that the steamship companies insist upon these charges, will not accept the goods except subject to bill of lading demanded by the steamship companies, and that the steamship companies engaged in the North Atlantic trade have formed a combination and are all one in this matter is not at all disputed.

I have before me a copy of the hearings in which is found their last announcement, made in January, 1891, when they made the last raise in their dock charges. They have raised them two or three times; but the last time they raised them they signed a notice, and here is a list of nine or ten steamship companies—I will not take up the time of the Senate to read it—notifying the shippers that they would increase the charges in the London dock clause to that extent. It is not disputed; it was not disputed at the hearings that the steamship companies had combined and had insisted on inserting that clause in the bills of lading.

Mr. JONES of Arkansas. I should like to ask the Senator on what theory these charges are made. As I understand the Senator, they are made exclusively against American goods.

Mr. NELSON. I can not tell the Senator, except that the steamship companies have combined among themselves to get this extra charge. The general rule of maritime law is that the freight charges which are paid for carrying a cargo include the discharge of that cargo; but, in addition to the freight charges, these steamship companies exact this extra charge, and they claim that it is done because they deliver the goods on the dock instead of delivering them directly overside into the lighter or the barge.

Mr. JONES of Arkansas. I understand this charge is made only against Americans?

Mr. NELSON. It is only made against goods transported in vessels engaged in the North Atlantic trade, American and Canadian.

Mr. HALE. I have already said that that is not the case, although the Senator believes that it is. I do not. There are other great lines from other parts of the globe that have a clause almost exactly like this, covering the same points. There is no discrimination as to our own goods being covered by the clause. Every Canadian ship has got to pay just the same, and it has always been so.

Mr. NELSON. I have already stated that, Mr. President. If I have not, I certainly intended to do so. This includes Canadian products and the products of our country. It includes goods shipped from this side of North America, including the United States and Canada, into the port of London. It relates wholly to London, and it is called the London dock clause.

Mr. HALE. The Senator is wrong about that.

Mr. NELSON. I am not wrong.

Mr. HALE. It relates to Glasgow, to Manchester, to Liverpool, and other ports. The great Oriental and Peninsular Navigation Company, with its lines of ships traversing almost all the waters of the globe, has provisions of this kind and always has had. It is for the convenience of trade. I do not wish to interrupt the Senator; but I will state my position after he is through. I only wanted at this time to call attention to this one point.

Mr. NELSON. If you will read page 6 of the report of the Committee on Commerce, you will find that it is spoken of in the circular of the North Atlantic shipowners as the London clause.

Mr. HALE. It is called the London clause undoubtedly.

Mr. NELSON. It is the London clause; and there is no such clause in any other bill of lading from any other country. The testimony taken at the hearings and the report of Mr. Choate show that no other goods or products, except those from the United States and Canada, are subject to this charge.

American shippers are utterly helpless against this combination. What can they do? The railroads refuse to receive goods unless the shipper will agree to submit to the bill of lading from the steamship companies incorporating the London clause. The steamship companies are unwilling to issue a bill of lading unless that clause is incorporated.

The trouble is that if that clause were not incorporated in the bill of lading, they could not make such a charge in England. The courts of that country have decided in cases that have been brought there that under the common law and under the act of Parliament London is a free port, and shippers are entitled to free delivery of their goods overside to barges and lighters from the ships; and under the act of Parliament of 1894 are entitled to free delivery into the barges; but the English court holds that because the American shipper has accepted a bill of lading containing that London dock clause, he has contracted himself, as it were, outside of the purview of the common law and outside of the purview of the act of Parliament. If that clause was not forced upon American shippers and inserted in the bills of lading, the steamship companies would not be entitled to collect a penny of that kind of charge in the port of London.

Mr. HALE. Who signs those bills of lading?

Mr. NELSON. The bills of lading are issued by the steamship companies.

Mr. HALE. But who signs them?

Mr. NELSON. They are signed by the steamship companies and issued to the shippers.

Mr. HALE. Issued to the shippers?

Mr. NELSON. They are issued to the shippers.

Mr. HALE. It is by contract.

Mr. SCOTT. But the shippers are obliged to make that contract or the companies would not take their goods.

Mr. HALE. Here we are attempting to say that men shall not make such contracts. Those are the terms of the bill, as Senators will see if they will read it. What I am afraid of is that Senators will not examine this question as they ought to. It is an attempt to declare, in a fight between the millers and steamship companies, that men shall not be held by contracts which they have made. I have never before known that to be done or attempted to be done.

Mr. NELSON. I will convince the Senator on that point if he will listen to me.

Mr. BERRY. Will the Senator from Minnesota yield to me a moment?

Mr. NELSON. Certainly.

Mr. BERRY. I want to say, in answer to the Senator from Maine, that the English law specifies the charges in English ports. The shipowners compel the exporters here to enter into a contract whereby they are to pay more than the law of England would require them to pay but for that agreement. The shipowners have a combination. All the shipowners agree to this, and they will take no man's product for shipment unless he does sign it.

The Senator from Maine says it is a contract. It is a contract which is forced upon the exporter, and one which he has no power to resist. It is a contract made by one side, compelling the shipper to pay more than the shipowners compel the people of any other port than North Atlantic ports to pay. Our producers can not compete with shipments from Australia and various other countries because those shippers do not pay it. This contract is peculiar to the North Atlantic ports. The Senator says it is a contract. It is a contract where there is only one party to the contract, because the shipowners force the shippers to make it, and they can not ship their goods unless they do it.

Mr. HALE. By leave of the Senator from Minnesota, I wish to ask the Senator from Arkansas a question. It is rather our fashion here to have colloquial debate.

Mr. NELSON. I yield.

Mr. JONES of Arkansas. I hope the Senator from Maine will speak so that we on this side may hear him.

Mr. HALE. I will. I wish to ask the Senator from Arkansas just what he means when he says that because of this practice the millers, who got up this bill, for it is a millers' bill——

Mr. BERRY. The Senator from Maine is mistaken about that.

Mr. HALE. The Senator says our millers can not compete with

the rest of the world, when everybody knows there practically is no competition in the London trade for flour. Ten or twelve years ago we exported ten thousand million hundredweight, and under these immense grievances which Senators are depicting our exports have increased in the last ten years to seventeen thousand million hundredweight, whereas the supply from the rest of the world is but a hundred and seventy-two thousand hundredweight. The American millers are not only able to compete, but they have destroyed the trade of the rest of the world. They have not suffered and are not kept down by this practice, but are getting more and more to supply to the London market its entire import of flour.

Mr. BERRY. Will the Senator permit me to answer?

Mr. HALE. Yes; I want the Senator to answer.

The PRESIDENT pro tempore. Does the Senator from Minnesota yield to the Senator from Arkansas?

Mr. NELSON. Certainly.

Mr. BERRY. In the first place, the statement of the Senator from Maine that the millers and flourmen are the only people interested is a mistake.

Mr. HALE. And the lumbermen.

Mr. BERRY. The lumbermen are largely interested in it.

Mr. HALE. Yes.

Mr. BERRY. Because the charge on lumber——

Mr. NELSON. Is even higher.

Mr. BERRY. Is higher even than on flour.

The Senator from Maine is also mistaken in another proposition. There is competion from the South American Republics in regard to the shipment of flour and wheat from those countries, and they do not pay these charges. Shipments from the South American Republics and Mexico go in free of this London dock charge, or this London clause, which is put in against the shippers from the North Atlantic ports.

Mr. HALE rose.

Mr. BERRY. If the Senator will permit me, why should not the steamship companies put into their freight bill whatever charges they demand for carrying freight? Why insert this particular clause to make these parties pay it?

Mr. HALE. Mr. President——

Mr. BERRY. I will tell the Senator why, in one moment, if he will permit me. The court in London, as our minister, Mr. Choate, reported when the shippers appealed to the courts in England alleging that the steamship lines were charging more than the laws of England authorized, said: "That is true; they are charging you more; they are forcing you to pay more, and the court would not permit it but for the fact that you have made a contract by which you are to pay more, and this court has not the power to give you relief."

Mr. HALE. Let me ask the Senator a question. He says, Why do not the steamship companies put it into the freight? He struck there which is a very underlying criticism of this bill. If the charge of what they now complain was put into the freight charges, who would pay it?

Mr. BERRY. The shipper would pay it.

Mr. HALE. Of course he would pay it. He would pay it simply in another form.

Mr. BERRY. Yes.

Mr. HALE. And yet the advocates of this bill all the time, seeing that they will be pushed to the wall and have finally got to agree to keep their contracts, are compelled to state, as the Senator has, that if this charge were put into the freight there would be no objection and then the exporter would pay every part of it.

Mr. BERRY. I will answer the Senator. If the steamships thought they would get the same amount by putting it into the freight, they would not be fighting this bill and having men before the committee and around these corridors to oppose it. If they put it in the freight bill, they know that competition will force them to pay these charges themselves, which they now force the shipper to pay. That is the reason why the lumbermen and the flourmen are interested in it. Let the companies put it into the freight bill. You say they can add it to the freight charges. Why this opposition to the bill if the companies would get it the same way—get it from the shipper? The shippers are willing to take their chances on that. The steamship companies know full well that when they are forced to do that the outside opposition will force them to pay the charges and the shippers will not have to.

I ask pardon of the Senator from Minnesota for having occupied so much of his time.

Mr. NELSON. Mr. President——

Mr. GALLINGER. Will the Senator from Minnesota permit me to say a word?

Mr. NELSON. Certainly.

Mr. GALLINGER. One observation was made by the Senator from Arkansas [Mr. BERRY] which I think ought not to go precisely as it was stated, and that is that there are men around the Capitol, and I think he said they were before the committee, opposing this bill. As a member of the Committee on Commerce I agreed that the bill should be reported, but I want to say that I never saw anybody before the committee opposing it, and no man outside of the committee has ever called it to my attention except one person, and he came promptly within a few days and said he had no objection to it. I think the Senator ought not to draw upon his imagination in reference to men being here lobbying.

Mr. BERRY. I never said anything about men being here lobbying. The Senator from New Hampshire was absent, I presume, when the committee hearings were had. He says he saw nobody before the committee in opposition to the bill. We had hearings and arguments on two or three different days. There was an attorney from South Carolina, and there were two or three from New York. There were attorneys on both sides. There were present a number of men, as the Senator from Minnesota well knows—in fact, the committee room was crowded with them. We had arguments for several days from attorneys representing both sides. I did not use the word "lobbyists." I said that the men who owned ships would not have men here to oppose the bill so strongly if they could, as the Senator from Maine suggested, by putting this charge in the freight bill get the money in the same way. That is all I intended to say and all I did say.

Mr. GALLINGER. I stand corrected in reference to the hearings before the committee, as I was absent on two occasions, to my regret.

Mr. BERRY. I thought so.

Mr. GALLINGER. But certainly, so far as any outside influence is concerned, I am sure none has been exerted on members of the committee.

Mr. BERRY. I never said that.

Mr. GALLINGER. I think it is a business proposition. I am somewhat undecided as to whether or not it is wise legislation, but I feel sure it is something that we can dispose of and decide upon the merits of the case.

Mr. MCCUMBER. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Minnesota yield to the Senator from North Dakota?

Mr. NELSON. Certainly.

Mr. MCCUMBER. The Senator from Minnesota has been so generous in allowing questions that I should like a little further information, and because he is so thoroughly acquainted with the subject I will ask him, before he gets through with the subject, to answer this simple proposition: Suppose, now, the object of the bill being to eliminate from bills of lading the London clause, that the proposed act becomes a law. We succeed in eliminating it. What guaranty have we or what reason have we to expect that the same companies will not combine and increase the amount of the freight to an equivalent of the loss by reason of eliminating this particular clause?

Mr. NELSON. I will say to the Senator in one sense we have no absolute guaranty, but I call his attention to the fact that ocean freights are subject to competition and fluctuation, according to the amount to be carried. When ships come here and are anxious to get cargo and cargo is scarce, rates are low. When cargo is abundant or overabundant, rates are high. But the freight rate is always subject to fluctuation and competition, and if there is any reduction or change in that matter the shipper gets the benefit of it, whereas this charge in the bill of lading, caused by the London clause, is a fixed and arbitrary charge, and is not subject to any competition, and the companies get it under all circumstances.

Mr. MCCUMBER. But why may we not expect the same competition in eliminating this clause that exists in regard to freight rates?

Mr. NELSON. How can there be competition in a clause they insert? I will put a case. The Senator is anxious to ship a lot of flour from Wahpeton, N. Dak., his home, to London. He can not ship unless he will accept a bill of lading agreeing to pay, in addition to the freight, 1 shilling 9 pence for discharging his flour in the port of London. There is no competition about that charge.

Mr. MCCUMBER. I understand the proposition, and I want to say to the Senator that I am wholly in sympathy with his bill and what he desires to obtain by it. But what I can not understand is why there would not be the same competition in the rate with this clause that there would be without it. In other words, suppose——

Mr. NELSON. But there is no competition as to this particular charge.

Mr. MCCUMBER. No.

Mr. NELSON. The Senator understands that. This charge is a fixed and arbitrary charge, put into the bill of lading no matter what the freight rate may be. But if the steamship companies are unable to insert this extra charge in the bill of lading and have to cover it all under freight, freight is the subject of

competition and a matter of fluctuation and change, of which the shipper gets the benefit.

Mr. McCUMBER. But, applying the rule of competition to this particular case, suppose, now, that there are more vessels ready to carry grain from the port of Duluth, or any other port in the United States, to London than there is grain to be carried. Why would there not be the same competition in the matter, so that one shipowner might say, "I will be willing to take your freight and will not insist upon this clause, if you will ship by my vessel?"

Mr. NELSON. The shipowners have all combined on the London clause.

Mr. McCUMBER. I understand; but why will they not combine just the same with respect to the freight?

Mr. NELSON. That is something with which we will take our chances. There is no guaranty for that. We are absolutely at the mercy of the new shipping trust formed by Mr. Morgan, whereby he seems to have gotten control of everything. We are trying here, I want to say to the Senator from North Dakota, and the Senate has passed such a bill and it is pending in the House, to give aid to American ships and American shipping, and now when we have here a measure to protect the American shipper and the American producer against the shipping trust, then we are met with opposition in this Chamber. I am willing to do what is reasonable to help to promote American shipping, but it does pain me exceedingly to see the shipping combination—I refer to nobody in this Chamber—come here, and that, when the producers of this country and the shippers of flour and wheat and lumber and of all American products come and ask for this relief and to be put on a par with all other shippers and producers in the port of London, they are met with opposition.

Mr. HALE. Has the Senator heard from the shippers of wheat and corn, aside from flour shippers?

Mr. NELSON. Certainly I have; and you are hearing from one now. I am a producer of wheat. I am personally interested in this measure, and it is the only bill pending in Congress in which I have a personal interest, to a small extent, as a raiser of agricultural products.

Mr. HALE. I do not understand that the shippers of wheat and corn, aside from shippers of flour—the millers—are interested. It is the millers and the lumbermen who are at the bottom of this bill.

Mr. NELSON. The Senator is utterly mistaken. There are papers on file from the beef producers, the shippers of American meat products, in Chicago and other ports. They are affected in the same way.

Mr. HALE. That is, the beef trust?

Mr. NELSON. God deliver us from trusts; but the shipping trust is about as bad as any trust I know of.

Now, I am coming to another question. The Senator from Maine suggested it, and then we went off into a side issue on other matters. He inquired about the bill of lading, and why, if the shippers accepted the bill of lading, they should not be bound by it. There are a great many instances where parties are forced to accept bills of lading and contracts that are against public policy and unjust, and the courts will not uphold them.

I call attention to what the Supreme Court of the United States has said in a case in 17 Wallace. That was a case where a railroad company had forced a passenger to accept a certain pass, exonerating it from all liability for the negligence of its agents. It was the case of a man who shipped cattle, I think to Chicago or some other market, and it is customary in those cases, where a man ships a carload or two of cattle, to give him a pass to go with the cattle and to come back, as a part of the contract. The railroad company had incorporated in the pass, or in the ticket they issued, a clause exonerating it from all liability for negligence. Here is what the Supreme Court says in the matter:

> The carrier and his customer do not stand on a footing of equality. The latter is only one individual of a million. He can not afford to higgle or stand out and seek redress in the courts. He prefers, rather, to accept any bill of lading or sign any paper the carrier presents; often, indeed, without knowing what the one or the other contains. In most cases he has no alternative but to do this or abandon his business. If the customer had any real freedom of choice—

We have not. There is a combination. There is not a freedom of choice—

> * * * If the customer had any real freedom of choice; if he had a reasonable and practicable alternative, and the employment of the carrier were not a public one, charging him with the duty of accommodating the public in the line of his employment—then, if the customer assumes the risk of negligence, it could with more reason be said to be his private affair and no concern of the public. But the condition of things is entirely different, and especially so under the modified arrangements which the carrying trade has assumed.
>
> The business is mostly concentrated in a few powerful corporations, whose position in the body politic enables them to control it. They do, in fact, control it and impose such conditions upon travel and transportation as they see fit, which the public is compelled to accept. These circumstances furnish an additional argument, if it were needed, to show that the conditions imposed by common carriers ought not to be averse, to say the least, to the dictates of public policy and morality.

I will not read it all.

Mr. McCUMBER. May I ask the Senator from Minnesota a question? I do not understand that his bill is retrospective at all.

Mr. NELSON. Not at all.

Mr. McCUMBER. It does not affect any contract heretofore made?

Mr. NELSON. No.

Mr. McCUMBER. It simply prohibits them in the future.

Mr. NELSON. I call attention to another statement from the Supreme Court in the case of United States *v.* Joint Traffic Association (171 U. S.):

> Notwithstanding the general liberty of contract which is possessed by the citizen under the Constitution, we find that there are many kinds of contracts which, while not in themselves immoral or mala in se, may yet be prohibited by the legislation of the States or in certain cases by Congress. The question comes back whether the statute under review is a legitimate exercise of the power of Congress over the interstate commerce and a valid regulation thereof.

I might read more authorities on this subject. In this connection I will call the Senator's attention to a case upon which our Supreme Court has lately passed. It is known as the case of the *Kensington*. It is the case of an American lady and her friend who purchased a ticket in Belgium over the International Navigation Company's line to New York. The ticket contained a clause exempting the company from all liability for damage to baggage over and beyond 250 francs, or $50 in our money, unless the passenger would have the baggage billed as freight, subject to the conditions of nonliability such as they were in the habit of incorporating into their bills of lading. Our Supreme Court in the case of the *Kensington* recently decided that, nothwithstanding such exemption from liability was valid and good from the port of departure, it was against our public policy and would not be upheld in the courts of the United States.

Mr. President, to sum up, under the common law, the custom of the port, and the act of Parliament, American shippers are entitled to free delivery of their goods in the port of London. They are exempt from this charge caused by the London dock clause, inserted in the bill of lading. The courts of London have held that nothwithstanding that is the law, the shipper having accepted a bill of lading, it is a contract, and therefore, under the law which prevails in England, it does away with the effect of the custom of the port of London as defined by the common law and the act of Parliament, and the shipper has to pay the charge.

Under the decisions of our court Congress is supreme. It has control over interstate commerce, as decided by the Supreme Court of the United States. And we have a right to do here as we did when the Harter Act was passed in 1893, to forbid their inserting in their bill of lading a clause contrary to the conditions and the laws and the customs prevailing in the port of London.

The American shipper is entirely helpless, because the steamship companies plying in the North Atlantic trade have united and combined and refuse to accept a cargo or deliver a bill of lading without the London clause. The shipper has to accept it or nothing; and all we ask to-day, Mr. President, is legislation on the part of Congress prohibiting them from inserting the London clause in every bill of lading. We want them to leave American products and American shippers in the port of London in exactly the same condition that shippers and products from other countries are left.

No constitutional objection was made to this bill at the hearings. No constitutional objection can be urged here, and there is no injustice to the carrier. It is a general principle of maritime law, Mr. President, that the freight charge for the carrying of goods from one port to another includes the expense of discharging the cargo. If the London clause is eliminated the steamship owners will not be prevented from including this in their freight rate, making it a part of it. What we ask is that when we ship our goods and agree to pay a certain amount of freight that shall be the end of it. We object to this clause, because it is an arbitrary, noncompetitive clause and puts us at a disadvantage in respect to other countries. As the report of Mr. Choate said, and I read from it a moment ago, it penalizes American goods and subjects them to a charge that no other goods are subjected to anywhere.

If there ever was a meritorious bill, if there ever was a just bill, it is this one. It simply endeavors to put the American shipper and the American producer on a parity in the port of London with the shippers and producers of other countries. It can work no substantial injury to shipowners, because whatever is just and right they can include in their freight rate and make it a part of it. When it is included in the freight rate it is subject to competition, and we ask to have the benefit of that competition and that fluctuation in rates which always prevail. There is no reason under the sun why the ships plying in the North Atlantic trade should in this way penalize and put a burden upon American shippers which is not put upon shippers from any other country.

It will work no substantial injury to the shipowners, and it is a great advantage to the shippers, and I submit, Mr. President,

that in this age, when we are confronted with trusts and monopolies and unlawful combinations on all sides, when one of the great problems is how to regulate and control trusts and monopolies and protect the American people against them, we should accept the opportunity now offered to protect the American farmer, the American lumberman, the American wheat raiser, the American cattle raiser, the American producer from one of the greatest trusts and monopolies, bigger now than ever because of this great new combination of Mr. Morgan's. It was bad enough before, but under present conditions, and as they are likely to be in the future, the people of this country are at the mercy of a devilfish of a monopoly, from which everyone of us ought to pray before we go to bed to be delivered.

Mr. HALE. Mr. President, the junior Senator from Massachusetts [Mr. LODGE] is necessarily absent. When the bill first came up he gave notice of an amendment, which in his behalf I now offer.

The PRESIDING OFFICER (Mr. MASON in the chair). The Senator from Maine on behalf of the Senator from Massachusetts offers an amendment, which will be stated.

The SECRETARY. It is proposed to insert as section 2 the following:

This act shall not in any way apply to foreign port charges, lighterage, expense of discharging, or other charge which it is agreed in a written charter party of the whole ship shall be paid by the charterer, consignee, or owner of the goods.

Mr. NELSON. I suppose the Senator wants to go on with his speech. I wish to say something about the amendment.

Mr. HALE. We shall not get through to-day, of course. Perhaps the Senator had better, if he chooses, speak to the amendment now.

Mr. NELSON. I should like to have the amendment sent up to me. It has not been printed that I am aware of.

Mr. HALE. I do not know that it has been printed.

Mr. NELSON. I have no recollection of it, except that the Senator from Massachusetts said he had an amendment to offer.

Mr. HALE. He gave notice of the amendment, and it was read at the time.

Mr. NELSON. This is the amendment:

SEC. 2. This act shall not in any way apply to foreign port charges, lighterage, expense of discharging, or other charge which it is agreed in a written charter party of the whole ship shall be paid by the charterer, consignee, or owner of the goods.

A part of this amendment is mere surplusage. "This act shall not in any way apply to foreign port charges and lighterage." It does not affect them, I wish to say to the Senator from Maine, and I think he will agree with me in this view. It does not relate to foreign port charges or lighterage. It leaves that just as it is to-day. But the other part of the amendment, "expense of discharging or other charge," if adopted, defeats the entire purpose of the bill.

The PRESIDING OFFICER. The question is on the adoption of the amendment offered by the Senator from Maine.

Mr. NELSON. The amendment ought to be rejected. One part of it is perfectly harmless. The other part of it is utterly destructive of the entire provisions of the bill.

Mr. HALE. Well, let us have a vote upon the amendment.

The PRESIDING OFFICER. The question is upon the adoption of the amendment. [Putting the question.] The noes appear to have it.

Mr. HALE. Let us have a division.

The PRESIDING OFFICER. The Chair is of opinion that no quorum is present, and he will order a call of the Senate.

The Secretary called the roll, and the following Senators answered to their names:

Allison,	Deboe,	Hale,	Morgan,
Bacon,	Depew,	Hanna,	Nelson,
Bard,	Dolliver,	Harris,	Perkins,
Bate,	Dubois,	Jones, Ark.	Pritchard,
Berry,	Fairbanks,	Kean,	Scott,
Burnham,	Foraker,	Kittredge,	Simmons,
Burton,	Foster, La.	McEnery,	Stewart,
Carmack,	Foster, Wash.	McMillan,	Teller,
Clapp,	Frye,	Mallory,	Warren.
Clark, Wyo.	Gallinger,	Mason,	
Clay,	Gamble,	Millard,	
Cockrell,	Gibson,	Mitchell,	

The PRESIDENT pro tempore. Forty-five Senators have responded to their names. There is a quorum present.

Mr. NELSON. Mr. President, the Senator from Maine desires to address the Senate on the bill. It is now nearly 2 o'clock, when the unfinished business comes up, and I do not think the Senator cares to go on for the few minutes before 2. I therefore ask unanimous consent that the bill may be taken up at the close of the routine morning business every morning until it is disposed of, not to interfere with appropriation bills or with notices already given.

Mr. HALE. I am entirely content with that.

Mr. GALLINGER. Mr. President, I will say——

Mr. BERRY. There is an agreement for Wednesday morning.

Mr. NELSON. It is not to interfere where notices have been given and agreements have been made. It is to continue to be taken up every morning at the close of the routine morning business, not, however, to interfere with appropriation bills or with cases where notices have been given or agreements for consideration have been made.

Mr. HALE. That is fair.

Mr. GALLINGER. I have no objection to that.

Mr. HALE. It is entirely satisfactory to me.

The PRESIDENT pro tempore. The Senator from Minnesota asks unanimous consent that the pending bill may receive consideration every morning after the routine morning business is disposed of until a vote is finally reached, not, however, to interfere with any notices given or with appropriation bills, or with any agreements already entered into.

Mr. HALE. Let me say that I do not think the agreement will result in anything quite as formidable as it indicates. I do not expect to take much time, and I presume that we shall reach a vote on Monday morning, so that the practical question of interfering with other matters is not likely to arise.

The PRESIDENT pro tempore. The Chair will take the liberty of adding to the request that the limitation of debate under Rule VIII shall not apply.

Mr. NELSON. Yes.

The PRESIDENT pro tempore. Is there objection to the request of the Senator from Minnesota? The Chair hears none, and the order is made.

PUBLIC BUILDINGS.

Mr. ALLISON. Mr. President, there is on the table a concurrent resolution from the House, and I ask that the time before 2 may be used in its consideration.

The PRESIDENT pro tempore laid before the Senate the following concurrent resolution from the House of Representatives, which was read:

IN THE HOUSE OF REPRESENTATIVES, *June 7, 1902.*

Resolved by the House of Representatives (the Senate concurring), That the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the sundry civil appropriation bill (H. R. 13123) are authorized to consider and recommend the inclusion in said bill of necessary appropriations to carry out the several objects authorized in the "Act to increase the limit of cost of certain public buildings, to authorize the purchase of sites for public buildings, to authorize the erection and completion of public buildings, and for other purposes," approved June 6, 1902.

Mr. ALLISON. The resolution is sufficiently explanatory. I ask unanimous consent that it may be put upon its passage.

The concurrent resolution was considered by unanimous consent, and agreed to.

Mr. ALLISON subsequently said: On reflection, I ask unanimous consent that the vote by which the concurrent resolution from the House was just passed may be reconsidered, and that the resolution may lie on the table.

The PRESIDENT pro tempore. The Senator from Iowa asks unanimous consent that the vote by which the concurrent resolution from the House was just passed may be reconsidered. Is there objection? The Chair hears none, and the resolution will lie on the table.

STORAGE RESERVOIRS IN ARIZONA.

Mr. DUBOIS. I ask unanimous consent to call up the bill (H. R. 12797) to ratify act No. 65 of the Twenty-first Arizona legislature.

The Secretary read the bill; and by unanimous consent the Senate, as in Committee of the Whole, proceeded to its consideration. It confirms, ratifies, and declares valid act No. 65 of the Twenty-first legislative assembly of the Territory of Arizona, entitled "An act to authorize any county in the Territory of Arizona having an assessed valuation of $8,000,000 or over to prepare plans and specifications for a storage reservoir or reservoirs, dam or dams, to acquire the site for the same, and to provide the necessary funds to defray the expenses incurred.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

OSAGE RIVER IN MISSOURI.

Mr. COCKRELL. I ask unanimous consent for the passage of the bill (S. 5906) declaring the Osage River to be not a navigable stream above the point where the line between the counties of Benton and St. Clair crosses said river. The bill is five lines long, and has been favorably reported from the Committee on Commerce.

The Secretary read the bill; and by unanimous consent the Senate, as in Committee of the Whole, proceeded to its consideration.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

HENRY I. SMITH.

Mr. FOSTER of Washington submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H. R. 8794) granting an increase of pension to Henry I. Smith, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate, and agree to the same with an amendment as follows: In lieu of the sum proposed by the Senate insert "forty."

A. G. FOSTER,
J. R. BURTON,
E. W. CARMACK,
Managers on the part of the Senate.
J. N. W. RUMPLE,
ELIAS DEEMER,
Managers on the part of the House.

The report was agreed to.

LEVI HATCHETT.

Mr. DEBOE submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 2975) granting an increase of pension to Levi Hatchett, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its amendment.

WM. J. DEBOE,
E. W. CARMACK,
Managers on the part of the Senate.
HENRY R. GIBSON,
A. B. DARRAGH,
RUD. KLEBERG,
Managers on the part of the House.

The report was agreed to.

ISTHMIAN CANAL.

The PRESIDENT pro tempore. The Chair lays before the Senate the unfinished business.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 3110) to provide for the construction of a canal connecting the waters of the Atlantic and Pacific oceans.

Mr. MITCHELL. Mr. President, I very much regret that my friend the Senator from Ohio [Mr. HANNA], who addressed the Senate yesterday, has been unable to get his speech into the RECORD this morning. There were a number of things he said that I would have been very glad to reply to to-day, and I have been depending on seeing precisely what he said by an examination of the RECORD this morning.

The Senator from Ohio in starting out found some fault with some remarks of mine made day before yesterday and, among others, the fact that I had parenthetically referred to the Isthmian Canal Commission as "his Commission." I think the Senator is entirely too sensitive. I did not mean at all by that to say that the Commission was one of his creation. I meant nothing of the kind. I did not mean to cast any reflection either upon the distinguished Senator from Ohio or the Commission. I simply made that reference, as I said, parenthetically, when I was speaking of the Commission which the Senator from Ohio was relying on and quoting from, and therefore for the time being it was his Commission.

Only that and nothing more.

Neither did I mean any reflection in that remark, or in any statement that I made in the whole course of my speech, upon the Commission. Upon the contrary, I know the Isthmian Canal Commission, as also the Nicaraguan Commission, were composed of able, high-minded, experienced, and scientific men, selected by reason of their well-known capacity to deal with the great subject committed to them. And for one, Mr. President, I am disposed to follow that Commission, as I understand it, but in following it I do not propose to rely solely and merely upon a few lines of recommendation in one part of the report of one Commission or in one part of that of another, but I propose to take all they say in all of their reports, as well their findings of fact as their conclusions and recommendations. I propose to consider their statements of fact in the various reports which they have made, in connection with their conclusions, and then to come to such a conclusion as I may be able to reach, after a careful consideration and analysis of all these, and in this manner reach a determination as to which is the better route to select for an isthmian canal

Mr. President, the Nicaraguan Commission, which was composed of Rear-Admiral Walker, Colonel Hains, and Professor Haupt, dealt mainly with the Nicaraguan route, and their report, as I stated the other day, was unanimous, unambiguous, and positive to the effect that the Nicaraguan route is an entirely feasible and practicable route. There is no getting away from that conclusion, looking to that report alone. Their statement and finding of facts point directly in that direction, and their conclusions and recommendations are to the same effect, because it will be remembered that the recommendation of the Nicaraguan Commission was in favor of constructing an isthmian canal over the Nicaragua route.

Now, what else? Those same three commissioners constitute three of the nine commissioners that make up the Isthmian Canal Commission. They made a preliminary report in November, 1900, in which they stated that, so far as they had progressed, they were decidedly of the opinion that the Nicaragua route is the better route of the two over which and along which to construct an isthmian canal.

They then proceeded with further investigations running up to November, 1901, when they submit their final report, in which they give a great number of facts bearing upon each route. and finally conclude with the statement that, all things considered, the most feasible and practicable route for the construction of a canal under the direction and control of the United States is the Nicaragua route.

Now, then, Mr. President, when the Nicaraguan Commission made their investigation they simply investigated, without regard to cost, as to the most feasible and practicable route on which to construct a canal, and this was also the case, as it seems to me, with the Isthmian Commission, taking their report as a whole, and not taking one part merely in the case of their report of the 16th of November, 1901.

Within a month or two, however—just how long I can not now state—from the time this final report is made a supplemental report is made in which they say what? Why, simply in view of the fact that this whole Panama business can be bought for $40,000,000 they now think the Panama route is the proper route. A route, Mr. President, that was the most feasible and the most practicable on the 16th day of November, 1901, became the less feasible and the less practicable route in January, 1902, the whole thing turning upon the simple question of cost.

Mr. President, I undertake to say that if the Senate will take up the history of these investigations, if it will take up these three or four reports made by the two commissions and examine them in the light also of the testimony that has been taken by the Committee on Interoceanic Canals of this body and examine the two conclusions and recommendations in the first report, the one in favor of the Nicaraguan route and the other in favor of the Panama route, construing this latest recommendation in the light of the former recommendations and of all the testimony and findings of fact in the case, you must come to the conclusion that the real recommendation, after all, of the Isthmian Canal Commission is in favor of the Nicaragua route.

The Senator from Ohio yesterday discussed at some length the feasibility of the construction of the Bohio dam, on the Panama route, and relied upon that great engineer, Morison, and we all concede he is a great engineer. Now, Mr. President, what is the testimony of Mr. Morison upon the very subject of the construction of the Bohio dam? He tells us that there is nothing in all the engineering experiments that have ever been tried in the world that will stand as a justification of a conclusion upon our part that, without question, that dam can be made a success. It is just to the contrary, as I will show from his own lips.

I refer, first, to the testimony of Professor Haupt, not for the purpose of reading particularly what Professor Haupt says, because I might be taken to task for it by the distinguished Senator from Ohio, as he seems to think that, for some reason or other, Professor Haupt is not a very credible witness. I do not know why. He is one of the Commission selected by President McKinley to investigate this great work. He was selected on both Commissions—on the Nicaraguan Commission and on the Isthmian Canal Commission. The Senator from Ohio yesterday eulogized that Commission very properly, and I join in that eulogy as to all of the members of that distinguished Commission; but unfortunately for the Senator from Ohio, after eulogizing the Commission very properly in the manner he did, he, in the next breath, assails one of its members and tells you, Mr. President, and this Senate that Professor Haupt is for some reason unworthy of belief.

The distinguished Senator from Ohio was hardly logical in that part of his speech. But I want to call attention to what Engineer Commissioner Morison, since he made his report in January last in favor of the Panama route, has said upon the subject of the construction of the Bohio dam. On page 557 of the hearings before the Senate Committee on Interoceanic Canals, Senate Document 253, part 2, Fifty-seventh Congress, first session, Professor Haput was on the witness stand before the committee of the Senate when this dialogue took place:

Senator FOSTER. I believe I will ask you this question: I read from Mr. Morison on the construction of the Bohio dams, in which he says:—

Then he quotes from the article written by Mr. Morison, as follows:

It involves novel and untried features, and few engineers, even among those who feel that they can construct it, would be ready to say in advance how the work could be done. The difficulties, taken in connection with the climate and other surroundings, are enormous.

That is Mr. Morison's statement in a paper that he prepared and which was to be read, and I believe was read, before a certain scientific society——

Mr. MORGAN. The Society of American Engineers.

Mr. MITCHELL. Before the Society of American Engineers. After quoting this extract from the statement of Engineer Morison, Professor Haupt was asked by Senator FOSTER of Louisiana:

Do you share that opinion?

Mr. HAUPT. I indorse that opinion; yes, sir; and have objected to that project for those reasons, but Professor Burr has had considerable experience in deep foundation, and he assures us positively that it can be done successfully, and I deferred to his perhaps better judgment in the matter. I still feel, however, that there is a very great doubt in regard to that dam.

Senator FOSTER. Are there any such unknown or uncertain elements entering into the construction of the Nicaragua route?

Mr. HAUPT. No; there are not.

Senator HARRIS. There really is no point along the entire Nicaragua route, no question which is not well within the limitation of ordinary, you may say, engineering experience.

Mr. HAUPT. That is correct; yes, sir. There are three possible dam sites, any of which would be better than that one on the Nicaragua route. Each dam site is better than that. The San Carlos dam site is better, and so is that at Ochoa; so is the present Conchuda, and it is possible by further boring that we may find a still better site.

Commissioner Morison undertook to explain later. I wish the Senate to have all sides of this controversy, and anything that is a benefit to our friends of the minority of the committee I am perfectly willing shall be disclosed here, and that nothing shall be hidden. Commissioner Morison voluntarily came back upon the witness stand, after he had been thus quoted by Commissioner Haupt, and undertook to explain away why he had said what he did say in the paper read before the Society of American Engineers. I will read what he said about it, to be found on page 605 of the same document, where he made a statement under oath. After several questions had been propounded to him and answered, and as he was about to leave the stand, Senator Hanna having made this statement:

Senator HANNA. Of course it is a very small percentage. I do not know of anything more that I care to ask.

Then Mr. Morison voluntarily comes forward and makes this statement in explanation of his statement about the Bohio dam in his address to the Society of American Engineers:

Mr. MORISON. There is one thing that I would like to say before we go.

He was not asked about it; no question was put to him; his examination had been completed, but he evidently felt that some kind of an explanation was due on the subject. So he said:

Mr. MORISON. There is one thing that I would like to say before we go. I see that a previous witness has introduced a paper that I prepared on the subject of the Bohio dam. That paper was prepared with a view of bringing the matter before a collection of engineers for discussion, to see what criticisms could be made on what I considered a satisfactory solution of the dam problem at a very much less expense than the Commission's plan. It will be discussed at a meeting in New York on the 5th of next month. When I stated there that I considered the Commission's plan—I have not the paper here or I would give you the exact words—when I stated there that I considered that the Isthmian Canal Commission's plan involved very great difficulties, I certainly did not mean that it could not be done. My own judgment is that, if I was going to use a core wall, I should not put the core wall in by the use of the pneumatic process; but I should select a place where I should have to go deeper than 128 feet, and would use the method that has been used in sinking very deep foundations in the rivers of India—that of dredging through wells. The paper was prepared for the purpose I have mentioned.

Senator HANNA. Of creating a discussion?

Mr. MORISON. It was prepared to bring forward the plan and have it discussed, and to get the opinions of engineers.

Now, then, you have Mr. Morison, who was on yesterday by the Senator from Ohio very properly eulogized as one of the greatest engineers in America and perhaps in the world, a member of the Commission, who does not agree in the first place with his cocommissioners in regard to the kind and character of dam that should be constructed at Bohio, and he says so. In so much doubt apparently is he in regard to the ability of engineers to construct such a dam as is suggested by the Isthmian Canal Commissioners that he deems it necessary and important to bring up the question for discussion before eminent engineers. That discussion, Mr. President, should have taken place before the Isthmian Canal Commission undertook to tell us which was the proper route on which to build the canal.

All these discussions as to the different engineering feats necessary to be accomplished before you can make a canal there should have been had and definite conclusions determined in advance of recommendations by the Commission, so there could have been no question of doubt about the success of the canal. Is the United States going to invest some $180,000,000 in a project the ultimate success of which lies in the region of uncertainty? All agree and tell you that the vital point in both those routes is the dam; that unless a dam can be made a certainty and with certainty maintained at Bohio, on the Panama route, or unless a dam can be made and maintained at Conchuda, on the Nicaraguan route, then no canal ought ever to be thought of being constructed on either of the routes.

I say, therefore, that all the testimony—and you have got three of the Isthmian Canal Commissioners joining in this doubt about the ability to construct a dam at Bohio such as is recommended—all the testimony goes to show that there is no question about the ability to construct and maintain a dam at Conchuda, on the Nicaragua route, or at any one of two or three other places, if not at Conchuda. Should a dam constructed at Conchuda give way, there is nothing to prevent the construction of another dam at two or three other places on the Nicaragua route, while, in so far as the dam at Bohio is concerned, if you should construct it, and, unfortunately, it should not stand, there is no other place on the Panama route where a dam can be constructed. There is but one place on the Panama route, that at Bohio, and there you must make it a success or otherwise the whole scheme fails. But, Mr. President, I am taking up too much time, and I will now proceed with some remarks that I had intended to make.

Three principal reasons have been suggested why the Panama route should be selected:

First. Assuming that we pay the New Panama Canal Company $40,000,000 for its plant and franchises, and assuming, further, that the estimates of the Isthmian Canal Commission are in the close neighborhood of reasonable accuracy, that the total cost of the construction of the canal on the Panama route will be $5,630,704 less than the construction of a canal on the Nicaragua route.

Second. That the estimated annual cost of maintenance and operation of the canal on the Nicaragua route is $1,300,000 greater than at Panama; and

Third. That the Panama is the shorter route.

The last two of these objections were considered by the Isthmian Canal Commission in their preliminary report, and also in their final report of November 16, 1901, and the answers as to them were regarded as conclusive. In other words, the Commission regarded the advantages that would accrue from the construction of the canal on the Nicaragua route, and which would not attach from the construction of a canal on the Panama route, much more than outweighed those two objections. This, therefore, really leaves but one of the three objections open to discussion in so far as the reports of the Commission are concerned. This will be considered by me later. These several propositions have been already in part considered, and will be further as I proceed.

The Senator from Ohio on yesterday discussed at some length the question as to the distances of the respective routes, and in order to show that the shorter route was by way of Panama he drew lines from the port of San Francisco, from a port in the Philippine Islands, and from ports in China and Japan to Brito, the western end of the Nicaragua route, and then he drew a line from those respective ports to Panama. Of course, Mr. President, the route to Brito is much longer—not very much, but somewhat longer—than the route to Panama from those particular ports, or from any port west of Panama; but you must consider the whole distance clear through to New York, to Liverpool, and to New Orleans, in order to determine which is the shorter route.

It is urged that the fact that the Panama is the shorter route, requiring but twelve hours for the passage of an average ship through the same, while on the Nicaragua route twenty-one additional hours are required, or in all thirty-three hours, is an argument in favor of the Panama route. But the answer to all this from the standpoint of American interests, American trade, American commerce, and indeed international trade and commerce, is found in the fact that the distance from San Francisco to New York is 377 miles, to New Orleans 579 miles, and to Liverpool 386 miles greater by the Panama route than by the Nicaragua route. The time it would take vessels to pass over even the shorter of these distances is, as stated by the Isthmian Canal Commission in their preliminary report of November 30, 1900—I quote from the report of the Commission—"much greater than the difference in time of transit through the canals."

Now, I take not the statement of the Senator from Ohio, but the report of his Commission—and I wish to say again I only mean by that the Commission on which the Senator relies, as I explained a few minutes ago—and that Commission—the Isthmian Canal Commission—say "much greater than the difference in time of transit through the canals," to say nothing of the infinitely greater commercial advantages that would come to the United States by the construction of the Nicaragua Canal than from that of a canal on the Panama route.

The difference in time of sailing vessels passing between the eastern and western coast ports of the United States by way of the Panama and Nicaragua routes respectively is, on an average, more than fifteen days, the route via Panama being that much longer; while at times, owing to the deadly calms on the Panama route, the difference is as much as thirty or even forty days.

Mr. President, there was one branch of this general subject which my friend from Ohio on yesterday passed over very lightly, and it is passed over in the views of the minority of the committee as though they were skating over thin ice. The distinguished

Senator from Ohio referred to it as the great opportunity that has come to us, and I now refer to the propriety, to the advisability, of the United States tacking on to one of the greatest frauds and pieces of corruption that has ever been disclosed since the world began, and I propose now to attract the attention of the Senate to something of the history of the old Panama Canal Company, as well as to the history of the New Panama Canal Company, which finally has led up, after innumerable disgraceful failures upon their part, to a proposition to sell out to the United States their old wares for $40,000,000, and we propose, according to the views of the minority of the committee and according to the amendment proposed by the distinguished Senator from Wisconsin [Mr. SPOONER], to consider seriously a proposition which, in my judgment, will involve the United States in interminable controversies for a hundred years to come should we make the purchase, and I will give my reasons why I think so. I do not propose to stand here and by mere dogmatic assertions ask that any attention be given to what I say. I want the Senate to know the facts and then to determine whether we can afford to hitch on to this rotten concern across the sea.

CAN THE UNITED STATES AFFORD TO ACCEPT THE TENDER OF THE NEW PANAMA CANAL COMPANY AND PAY THAT COMPANY FOR ITS PLANT AND CONCESSIONS THE ENORMOUS SUM OF $40,000,000?

I come now to consider the question: Shall we adopt either what is known as the "Spooner amendment," which was introduced in the Senate by the distinguished Senator from Wisconsin on January 28 last, or that of the distinguished Senator from Massachusetts [Mr. HOAR], introduced more recently? I respectfully, but earnestly and with entire confidence in my position, assert that for many reasons the Senate should not accept either.

The Spooner amendment, briefly stated, proposes to authorize the President of the United States to acquire, for and on behalf of the United States, at a cost not exceeding $40,000,000, the rights, concessions, grants of land, rights of way, unfinished work, plants, and all maps, plans, drawings, records, and other property, real, personal, and mixed, of every name and nature, owned by the New Panama Canal Company of France on the Isthmus of Panama and in Paris, including 68,863 shares of the Panama Railroad Company, alleged to be owned by said canal company, provided satisfactory title to all said property can be obtained.

The amendment also authorizes the President to acquire from the Republic of Colombia, on behalf of the United States, the necessary concessions, and a sum of money—no amount named—such as may be necessary to carry out the provisions of the bill is appropriated. And in the event of the purchase being consummated from the New Panama Canal Company, the President is authorized to construct the canal on the Panama route from the Caribbean Sea to the Pacific Ocean.

The amendment further provides that in the event the President is unable to obtain for the United States a satisfactory title to the property of the New Panama Canal Company and such control of the necessary territory of the Republic of Columbia "within a reasonable time and upon reasonable terms"—just what we might consider a reasonable time or reasonable terms I am not able to say; there might be a very great difference of opinion even among the advisers of the President as to that—then the President having first obtained for the United States similar control of the necessary territory from Costa Rica and Nicaragua, upon terms which he may consider reasonable, for the construction, maintenance, operation, and protection of a canal connecting the Caribbean Sea with the Pacific Ocean, on what is commonly known as the Nicaragua route, he shall direct the Secretary of War to excavate and construct a ship canal from a point on the shore of the Caribbean Sea near Greytown, by way of Lake Nicaragua, to a point near Brito on the Pacific Ocean. And it is further provided that appropriations may from time to time hereafter be made to meet contracts made by the Secretary of War, not to exceed in the aggregate $135,000,000 should the Panama route be adopted, or $180,000,000 should the Nicaragua route be adopted. This, in brief, is the substance of the proposition of Senator SPOONER and of the minority of the committee.

While in that proposed by the Senator from Massachusetts [Mr. HOAR], the question as to the determination of the route is left entirely to the President of the United States, and he is authorized to proceed with the construction of the canal on whatever route he selects, and the sum of $10,000,000 is appropriated toward the project contemplated, and it is provided that the sums required under any contract which may be entered into shall be paid for as appropriations may from time to time be hereafter made on warrants to be drawn by the President of the United States not to exceed in the aggregate $180,000,000. This bill of Senator HOAR makes no reference whatever to the proposed purchase from the Panama Canal Company.

I find that many have supposed that what is known as the Spooner amendment, and which has been adopted by the minority of the committee, left the whole matter of the selection of a route to the President. This is not by any means the case. Upon the contrary, this substitute, proposed by the minority, directs the President to ascertain, in the first place, whether a satisfactory title to the property in question can be given by the New Panama Canal Company, and if he finds that such satisfactory title can be obtained, then the President is compelled, whatever may be his individual opinion as to which of the two routes is the better one, to pay over to the New Panama Canal Company $40,000,000 and proceed with the construction of the canal on the Panama route.

And in the meantime, that is, until it is settled whether a satisfactory title can be obtained or not, the President has no power whatever to proceed with negotiations with the Republics of Nicaragua and Costa Rica for the purpose of obtaining the necessary concessions for the construction of a canal over that route, and it is only in the event that a point is reached where it is determined that a satisfactory title can not be had from the New Panama Canal Company that the President has any authority whatever to take any steps, either by negotiations with the Republics of Nicaragua and Costa Rica, or in any other respect, looking to the construction of the canal over the Nicaragua route. I do not know how long it would take, nor do you, Mr. President, or any other Senator here. We all know, however, it will take a long time to make an investigation of that character by the President of the United States, even with all the aids at his command.

THE SELECTION OF A ROUTE FOR AN ISTHMIAN CANAL IS A PURELY LEGISLATIVE FUNCTION AND SHOULD BE EXERCISED BY CONGRESS AND THE PRESIDENT, AND NOT BY THE PRESIDENT ALONE.

In considering these several propositions I respectfully insist that the duty of selecting a route for an isthmian canal is a legislative duty and not an Executive duty. It is a duty of the most important character, of tremendous responsibility, resting upon the Congress and the Executive and not upon the Executive alone. For Congress to shirk such a responsibility is to cowardly surrender one of its constitutional prerogatives and one of its highest duties and turn it over without even a plausible excuse to and impose the duty on the President.

Mr. DIETRICH. Is it not true that the Spooner amendment is merely a legislative measure and only calls upon the President to see that the title is perfect?

Mr. MITCHELL. I will come to that point in a moment. It is quasi legislative.

The 80,000,000 people of this country, interested in this great work, have a right to demand that the selection of a route for an isthmian canal shall be the result of the best judgment, after a full investigation, of a majority of the four hundred and forty-odd men who compose the Congress of the United States, and not the judgment of one man only, although that one man may be the President of the United States.

These 80,000,000 people have a right to solemnly insist that the important question as to whether this Government shall pay the French canal company $40,000,000 for its assets shall not be left to the determination of any one man, though he be the President of the United States, but that it shall be determined by a majority of the two Houses of the American Congress. As well, and with as much propriety, might Congress relinquish its right and abandon its duty to determine the amount and character of the appropriations for the improvements of rivers and harbors, or if not, indeed, the amount, when and where and how the same shall be expended; or as to the appropriations for the sundry civil expenses, or if not, indeed, the amount, how and when and where the same shall be applied; or the size and capacity of the ships of war to be built, and where, whether in the Government or private yards, and shift all these purely legislative duties on the shoulders of the President.

I am not denying the constitutional power of Congress to transfer this responsibility of determining as to the route, or even of the other question as to the purchase for $40,000,000, although it must be admitted this choice upon the part of Congress of any agency to perform what is, to say the least, a quasi legislative act borders very closely, indeed, on the line where the power of Congress to transfer its power ceases.

The sovereign power to make national laws is vested in Congress, and as a general rule it is a settled maxim, *delegatus non potest delegare*—that that power to whose judgment, wisdom, and patriotism this high prerogative has been intrusted can not relieve itself of the responsibility by choosing other agencies upon which the power shall be devolved.

But there are exceptions to this general rule, I concede, and I frankly admit the right to confer these powers upon the Executive comes within that exception—this upon the principle that while Congress may not delegate its power to make a law it can make a law to delegate a power to determine some fact or state of things upon which the law makes or intends to make its own action dependent. It is upon this principle that the provision of

the judiciary act, which empowers the Federal courts to adopt rules of practice and forms of procedure, is held to be a valid delegation, although the discretion conferred is quasilegislative.

But while I concede the constitutional power, I most emphatically deny the wisdom and propriety of its exercise. Especially should I do this in a matter involving such tremendous interests and responsibilities of such immense magnitude, not only in the matter of the expenditure of such a vast amount of money, but which also affects so vitally the future of our national and international commerce—our domestic and foreign trade.

It has been suggested if we fail to buy out the French people and complete the Panama Canal, but construct the Nicaragua Canal, that either the present New Panama Canal Company or some other syndicate or company will complete it, and as a consequence we will suffer loss in some way in the future. This was a part of the argument on yesterday of the distinguished Senator from Ohio. The answer to all this is that such a contingency is by no means either as probable or as much to be feared as this: That if we abandon the Nicaragua route and adopt the Panama route we may suffer the humiliation of seeing, at no distant day, our commerce passed through a Nicaragua Canal and be compelled to pay toll to some foreign syndicate, to say nothing of the further humiliation of being deprived of our coastwise trade. If we take the Panama we can not expect, in view of existing geographic and commercial positions, to play the part of the dog in the manger.

The intercoastal commerce of the United States, together with the local traffic along the Nicaragua route, will pay the interest on the cost of construction, to say nothing of the commerce and trade from northern Asia, and the advantages of subsidies from Nicaragua and Costa Rico, which will be readily granted to any private company constructing the Nicaragua Canal.

Far better, Mr. President, a thousand times over, pay the new canal company of France $40,000,000, fill up the practically already filled up ditch they have been a quarter of a century in digging, destroy the practically useless, out of date, and worn-out machinery, burn to ashes the old maps and drawings which they propose to sell to the United States for the sum of $2,000,000, and abandon the route to the bats and the owls, the vampires and the monkeys, the indestructible bacteria that fill its miasmatic swamps and which constantly spread death on every side, and to the race of men whom God placed there in the beginning.

But that those connected with the New Panama Canal Company expect to make princely fortunes out of this deal, in the event they can induce the United States to buy them out for $40,000,000, is made apparent by the testimony of their own American agent and representative, Mr. Edouard Lampre, as the secretary-general of the Compagnie Nouvelle du Panama, in charge of the New Panama Canal Company, now the owner and controller of all the property of the old Panama Canal Company, including such additions as have been added to it by the new company, and included in all which is the ownership of 68,900 of the 70,000 of the shares of the Panama Railroad Company. In Mr. Lampre's testimony, taken before the Interoceanic Canal Committee of this body on January 11 last, he, having previously stated that the total amount originally subscribed to the new company was 60,000,000 francs, and that the company had now on hand in cash in the treasury 16,000,000 francs, said:

Senator TURNER. How much money has the new company put into this enterprise?
Mr. LAMPRE. At the present time?
Senator TURNER. Yes.
Mr. LAMPRE. I think I stated at the beginning of this hearing that as far as I can recollect at this time about 16,000,000 francs are left from 60,000,000 francs originally subscribed.
The CHAIRMAN. I expect to examine M. Lampre on that point. Do you mean the stock?
Senator TURNER. How much money has the company actually expended in the enterprise?
Mr. LAMPRE. The difference between 60,000,000 francs and 16,000,000 francs; that is to say, assuming my figures to be correct, we would have expended 44,000,000 francs.
Senator TURNER. That is eight or nine millions dollars. If the new company are to get 40 per cent of the $40,000,000 they would be making considerable money?
Mr. LAMPRE. I do not know what the percentage will be.
Senator TURNER. That is a matter for the arbitrators?
Mr. LAMPRE. That is so.

This testimony followed a statement by Mr. Lampre that by an agreement between the liquidator of the Old Panama Canal Company and the New Panama Canal Company the liquidator was to receive for the benefit of the shareholders of the old company 60 per cent of whatever amount might be received from the sale of the Panama Canal Company's property by the New Panama Canal Company.

I call the attention of Senators to this point. Here, in the first place, when the old Panama Canal Company became bankrupt and went into the French bankruptcy courts and a liquidator was appointed, which corresponds to a receiver in American courts, an arrangement was made, under the direction of the court, by which it was agreed that the new company should be organized, which is the New Panama Canal Company that now proposes to sell out to us, and that that company should go on and complete the canal, not sell it out to somebody, and that 60 per cent of the net profits that should arise from the completion of the canal by the new company should go to this liquidator, this receiver, for the benefit of the shareholders and bondholders in the old Panama Canal Company. That took place in 1894, eight years ago. The new company was organized, and a lot of men—I will come to that later—who had been mixed up in a criminal way with the old company, who were being prosecuted, some of whom were convicted, were compelled to take the stock of the new company. I will come to that, however, later on.

Within the last year this arrangement by which the new company was to go on and complete the canal and under which the liquidator should receive 60 per cent, was abandoned and a new arrangement was made by which the new company were to sell out all they had, their plant, their franchises, and everything to anybody. It did not say to whom nor did it say for what amount. There was no amount fixed in the order of the French court at which they should be authorized to sell. But it was stipulated that 60 per cent of whatever amount was received should go to the liquidator for the benefit of the shareholders and bondholders of the old company. So you will see, as I proceed, that there are questions of grave moment here as to whether the shareholders and bondholders have been cut off of all rights by virtue of the proceedings in the bankruptcy courts. But not only that, suppose they have not been cut off and suppose there is a failure subsequently upon the part of the liquidator to turn over 60 per cent of the $40,000,000 to those shareholders and bondholders. Is it not apparent that they will come forward and say "You have become the beneficiary of our property," and say to us through the Congress of the United States or through our courts that we have come into possession of property which their money built and out of which they have been swindled? But I will come to that more specifically later on.

THE DARK HISTORY OF BOTH THE OLD AND THE NEW PANAMA CANAL COMPANIES.

I now propose to attract the attention of the Senate to the repulsive and disgusting history of both the old and the new Panama Canal companies. And with that history, with all its repulsiveness, before the Senate, I propose to inquire, in the name of the American people, whether the Senate of the United States can afford to link its fortunes with a scheme, the putrefying stench from which has filled the nostrils of the nations, and caused respectable business, social, and political mankind to turn aside in disgust.

Can it be possible the United States would seriously contemplate attaching itself to or involving itself with a foreign enterprise which, in its time, under another form and under another name, and within the last ten years, developed an explosion which laid bare to the world, shocking the sensibilities of mankind, the most tremendous scheme of legislative corruption, journalistic venality, moral, social, and political abandon, ever uncovered in any country or in any age; an explosion which left its dark stains of infamy upon the theretofore stainless foreheads and unsullied names of men who, until then, stood among the foremost in the ranks of the great scientific and progressive men of the age, and consigned the great French engineer, Ferdinand de Lesseps, to the ignominy of the prison cell?

I undertake to say in all history never has any scheme or proposed enterprise or project been so literally saturated from start to finish with false pretenses, misrepresentation, corruption, and fraud as has been the scheme having for its alleged purpose the construction by the French people of an isthmian canal over the Panama route. There never has been an hour from the time since in 1875 Naval Lieut. Lucien Napoleon Bonaparte Wyse obtained what is known as the Wyse concession until the complete bankruptcy of the company in 1888 that every step of those connected with the enterprise has not been marked by the most glaring deception, corruption, and fraud. The great engineer, Ferdinand de Lesseps, flushed and bewildered with the honors that came to him in connection with the construction and completion of the Suez Canal, imagined his great name would command money by the millions for any scheme with which his name was connected, and while he may have thought the Panama Canal would eventually be built, it is clearly evident to all those who will carefully study the history of his connection with the Panama Canal that, viewed in the light of historical events, his principal purpose was that of making for himself and a few friends princely fortunes, and this, too, through a systematic course of false pretenses, misrepresentations, corruption, and fraud.

Neither the well-merited high standing in this body of the able and distinguished Senator from Wisconsin, nor that of the distinguished members of the minority of the committee nor that of

any other Senator, as it seems to me, can be of sufficient weight to justify a belief in the minds of a majority of this high tribunal that it would be wise to have the United States link its fortunes with this New Panama Canal Company, which is neither more nor less than a combination of the survivors of the old, defunct, deposed, bankrupt Panama Canal Company, masquerading under a new name and in a new dress. It may be said by some, Why refer to the scandals, to the shortcomings, to the defaults, to the misdeeds, to the bankruptcies, and to the crimes of the old Panama Canal Company?

I will tell you, Mr. President, the reason why. The New Panama Canal Company which now proposes to sell to the United States a certain property, and which we propose to buy, according to the Spooner amendment, paying for the same the enormous sum of $40,000,000, was obtained by them principally, or the greater portion of it, from the old Panama Canal Company through questionable bankruptcy proceedings in the French courts. A determination, therefore, of the legality of the title of the new company to this property necessarily involves a most thorough examination of the entire history of the old company from its inception to the end. And it is proper in this connection to inquire not only whether the new company has a strictly legal title to the property which it proposes to sell us, but also whether there are any moral and equitable rights outstanding upon the part of the French stockholders and bondholders, not only of the old but of the new company, which would lift their hydra heads in our equitable courts and before Congress for innumerable years to come, basing their claims upon the ground that the United States, having become the beneficiary of the property of the new canal company, is in equity and good morals bound to respond to these equitable claims.

The Spooner amendment, I take it, simply deals with a strictly legal title; but whether it does or not, I submit that the United States must, before we can engage in this enterprise, look beyond that and inquire whether there are any equities here that will not in the future come to harrass and annoy us. For one, I submit to the Senate my deliberate conviction, after a most thorough investigation of the whole proposition, that the purchase of the New Panama Canal property for which they claim $40,000,000, even could the same be obtained for $100, would be a bad bargain for the United States.

When Wyse obtained his first concession, in 1875, no surveys of a route had ever been made, except by the American engineer Menocal, made that same year. On presentation of this concession to the Paris Geographic Society, that society, while manifesting a friendly disposition, declared scientific surveys a necessity in order to determine as to the feasibility of the scheme, but at the same time announced its lack of funds. Then, in December, 1876, Wyse and his aids went to Colon and then to Panama for the purpose, not of finding the best route for a canal, as is well known, but for the purpose of finding the best route within the Wyse concession of 1875. No survey, however, was made, and the next year, 1877, Wyse and his principal associate, Reclus, returned again to Panama. And, to show the absolute insincerity and lack of good faith upon the part of these men, and that their purpose was not to lay a proper foundation for the construction of a canal, but rather to lay the foundation for the perpetration of a gigantic fraud upon the French people, only thirty-five days were spent in the field by these men and their engineers.

Wyse then sought a new concession, and this he obtained from the Government in Bogota in May, 1878. In the meantime the engineer Reclus went over the route, spending, however, but eighteen days in the field, when he returned to Europe and died.

And it was, Mr. President, upon this concession and this pretended survey, this palpably fraudulent foundation as a base, that the Panama Canal Company, the old one, was founded.

Up to this point in the history of affairs relating to an isthmian canal Ferdinand de Lesseps had been a "looker-on in Vienna," evidently awaiting the hour when he could best determine as to which of the school of promoters it would be to his interest to associate himself with, whether the Lefevre-Blanche combination, those interested in the Nicaragua route, or the Wyse-Tuerr combination in the Panama scheme.

At this time the Lefevre-Blanche people had a good route, via Nicaragua, thoroughly surveyed and mapped, but unfortunately had no concession from Nicaragua or Costa Rica, while the Wyse-Tuerr people had a concession, but they had no survey, but which route had been condemned by scores of American engineers after a most thorough and careful investigation. It was at this juncture De Lesseps became identified with the Panama scheme. He induced the Paris Geographical Society to call what he designated as "An International Scientific Congress." This congress convened and was called to order by De Lesseps in Paris, May 15, 1879. He organized the committees. What was known as the "technical committee," which had jurisdiction of the question of the selection of a route for an isthmian canal, was composed of 54 members; of this, but two were Americans, the leading American delegate being the American engineer Menocal, and the two leading English delegates were Sir John Hawkshaw and Sir John Stokes.

Mr. Menocal, one of the greatest naval, civil, and hydraulic engineers in America, and thoroughly conversant with the Panama route, through long personal experiences, presented and urged upon that committee of 54, at great length, the insurmountable difficulties in controlling the Chagres River.

This was shortly after he had made a thorough survey of the Panama route. He spoke of it as a river that has been known in the past to rise as high as 43 feet in twenty-four hours.

That is the character of a river you have to deal with, where you propose to construct the Bohio dam—a river which has been known to rise 43 feet in twenty-four hours and 46 feet in twice twenty-four hours. I will say that this is not my statement, but it is the report of the engineer of the Panama Railroad Company as to the rise in this river.

Mr. Menocal also urged in the Paris congress the feasibility and great advantages of the Nicaragua route. He was strongly supported in these views by the two leading English delegates I have just named. The only data Wyse could present to this committee as a foundation for consideration and action as to the Panama route was an old map made by Totten, the former chief engineer of the Panama Railroad Company, made in 1857, twenty-two years before the meeting of this international congress.

De Lesseps, however, controlling the committee as he controlled the congress—and why should he not control both, as they were both in a great measure his creatures?—demanded of this committee an answer to two questions:

First, whether a tide-water canal was possible across the Isthmus of Panama; and,

Second, whether it could be constructed along the Panama route.

And notwithstanding the gross absurdity of requiring answers to such questions with the meager data before them, in fact no data at all, that committee advised De Lesseps and his international congress that a tide-water canal was practicable, and that it should run on the Panama route between Colon and Panama.

Wyse's estimate of the total cost of constructing a sea-level canal, submitted by him to this committee, was 427,000,000 francs, or about $85,400,000. This technical committee, however, under De Lesseps's dictation, revised this estimate and increased it to 1,044,000,000 francs, or $208,000,000, or $37,200,000 more than double the Wyse estimate.

Was ever a more barefaced, transparent fraud enacted by any great committee, or any congress, either national or international?

But the absurdity of the whole proceeding is still further disclosed when it is recalled that before any vote was taken in this committee the American and English representatives had withdrawn in disgust, and that not more than 20 of this committee of 54 ever voted on any one of the propositions submitted; while, when a vote was taken in the full congress, only 98 out of 136 delegates voted, of these 75 voted in the affirmative, but of these 75 only 19 were engineers, and but a single one of the whole number had ever seen the Isthmus of Panama.

The enormity of this whole proceeding is still further developed by the fact that it is now conceded on all sides, with one exception, even by the French engineers, even by the new company now seeking to sell its plant to the United States for $40,000,000, that an isthmian sea-level canal across the Isthmus of Panama is a physical and engineering impossibility.

I say there is one exception, and that is the distinguished Senator from Ohio, who in his speech yesterday, as I understood him, claimed that a sea-level canal could be constructed there, or that a canal with locks, now recommended by this Commission, could be constructed, and that later on it could be reduced to a sea-level canal. I wish to say, without stopping to point to the testimony, that those Senators who feel interest enough in this matter to investigate it thoroughly will find that the testimony of all the engineers, both French and American, is to the effect that the construction of a sea-level canal across the Isthmus of Panama is an engineering impossibility.

Mr. MORGAN. And it has been abandoned expressly by the French.

Mr. MITCHELL. And as stated by the distinguished chairman of the committee, it has been abandoned expressly by the French company and the French engineers.

Mr. MORGAN. And by the Isthmian Canal Commission.

Mr. MITCHELL. And by the Isthmian Canal Commission also. Then what is the use, Mr. President, to indulge in loose talk here about doing this, that, or the other thing, however high may be the motive and however earnest may be the men and the Senators—and I do not question the motive of any man. Especially would I hesitate to question the motive of any Senator.

I take it we are all honest; we all mean to get at the truth here; but it is a misconception of the case on this particular point to say that the construction of a sea-level canal across the Isthmus of Panama is a possibility.

Mr. President, based on this exclusively paper basis, De Lesseps appealed, but in vain, to the people of France for subscriptions. He called for subscriptions for 800,000 shares of the nominal value of $100, and he pledged himself to proceed with the organization when one-half of the amount was subscribed for. In his appeal for subscriptions he represented the stockholders would receive dividends of 11¼ per cent, while he proposed to pay 5 per cent interest on all shares. But, notwithstanding these flattering inducements were backed up by the great name of De Lesseps, the French people declined to seize the apparently tempting bait, and the total subscriptions were less than 30,000,000 francs. Then it was that the ever resourceful De Lesseps, who until then had never set his foot on the Isthmus of Panama, determined to visit that country, and by a spectacular performance arouse the cupidity, fire the patriotism, and incite the ambition, not only of the French, but of the American people. His plans were international in their conception, and his great ulterior purpose the capture not only of the French, but of the American investors, and to obtain control not only of the French Parliament, of the French press, of the French politician and the French people, but also the American press, the American public, and, if possible, the Administration of President Hayes.

In pursuance of these great purposes, every one of which was characterized by mercenary motives, and not one of which was prompted by either national or international patriotism, nor by any desire or real intention of promoting the commercial welfare of nations, or of advancing the true interests of civilization and material progress by the construction of the canal, the great De Lesseps arrived in Colon, on the Isthmus of Panama, on the 31st day of December, 1879. It was his first visit there. His first alleged purpose was to verify the Reclus survey, which was, as I have already stated, really no survey at all. But even in advance of his arrival he announced to the world that ground would be broken and work on the Panama Canal would be commenced on the 1st day of January, 1880. And the proceedings which immediately followed his arrival at Colon—in fact, the very next day, January 1, 1880, the breaking of ground on the deck of a steamer, stuck in the mud 2 miles distant from the selected spot for breaking ground, and 2 miles distant from land—present one of the greatest farces, if not the very greatest, ever witnessed on earth in either ancient or modern times.

Although De Lesseps's own engineers had estimated the cost of a sea-level canal under the Wyse concessions at $208,800,000, he, while on his way to New York, after breaking ground, on the deck of a steamer 2 miles from land, reduced this estimate by lopping off at one stroke of his pen from the amount of the estimated cost of his own engineers the sum of $77,200,000—not francs, dollars—and fixing the amount at $131,600,000 instead of $208,800,000 as fixed by the engineers. Why, Mr. President, was this done? I will tell you why. It was because the Paris congress had estimated the cost of the canal on the Nicaragua route at $143,000,000. What a gigantic step of misrepresentation and false pretenses was this in the preparation for the launching of one of the most stupendous "gold brick" games ever imposed on any people.

But still fearing the French people might hesitate to subscribe on account of the amount required, even according to this reduced estimate, he again, in October of that same year, 1880, reduced the estimate by cutting off the further sum from the total of $25,600,000 and fixed the total cost of the construction and completion of the Panama Canal at $106,000,000. That is just a mere fraction over one-half of what his own engineers, the engineers of the great congress which he had called together, had fixed. Why was it done? Of course he was fearful that there would be another failure on the part of the French people to take stock on account of the magnitude of the sum that had to be raised, and therefore he reduced it, as I said, by a stroke of his pen, to one-half the amount; first lopping off while on the steamer on his way from Panama to New York $77,200,000, and in October of the same year he took his pen and lopped off $25,600,000 more.

Then, by this reduction in the estimated cost, and by proclaiming to the public that two well-known and distinguished contractors, Couvreux & Hersent, men who had successfully executed large contracts on the Suez Canal and in the public works on the Danube, were willing to enter into a contract to complete a sea-level canal at Panama for 512,000,000 francs, or $102,400,000, believing he had prepared such an attractive bait that the people of France would not hesitate to bite, he issued his proposals. This was in November, 1880; and this time, instead of asking for 400,000,000 francs, or $80,000,000, he only asked for 300,000,000 francs, or $60,000,000, thinking that the French peasants—men, women, and children—would more likely bite if the aggregate amount to be raised was not so large.

This proposition was accompanied with a proposition upon the part of De Lesseps, or the Panama Canal Company, which was the same thing, that the balance of $42,400,000 would be forthcoming from the sale of bonds of the company. It was subsequently proven, on investigations which followed, that the statement that the contractors Couvreux & Hersent would enter into a contract to construct the Panama Canal for a certain figure was without any foundation whatever and was a base misrepresentation.

This plan of De Lesseps and his associates for extracting money from the people of their own country, the most of them peasants and many of them women, was a grand success; and of the 600,000 shares to be disposed of at $100 each 10,000 shares of the same were set aside for the Wyse-Tuerr combination as a consideration for the Wyse concession. This left but 590,000 shares at $100 a share to be offered to subscribers. But so thoroughly had the plans of the conspirators been laid and in such an attractive manner had the scheme been presented that, instead of 590,000 shares, 1,206,609 shares were subscribed for. In the final allotment of the shares—because there had to be an allotment—the subscriptions were double in excess of the shares to be allotted, in the final allotment of the shares, to some more and to some less, there were allotted in all to 102,230 persons, over 16,000 of whom were women. Of the total number who obtained shares 80,837 had less than 5 shares each and 19,143 had less than 20 shares each.

On the first call a fraction over $25,000,000 in cash were collected. The conspirators were in funds. And when the first financial statement was submitted to the shareholders March 3, 1881, it was made to appear that within a fraction of $9,000,000 had vanished in what was termed in the statement as "preliminary expenses." This it must be borne in mind was all anterior to the date when a shovel of dirt had been thrown or a pick struck in the commencement of the work on the canal.

De Lesseps had while in America in 1880 done a little business on this side, in New York and elsewhere. Among other things, as will be remembered by all, he organized what was called the "American committee." Precisely what the duties of the American committee were, and just how far its jurisdiction extended, can not perhaps be accurately stated except by the committee itself.

That it was to a very large extent political there can be no doubt, and that one of its chief duties was to bolster and boom the Panama Canal scheme and to throw every obstruction in its power in the way of the construction of the Nicaragua Canal is equally true. Some idea may be had of its duties from two facts disclosed by the history of the rise and downfall of the Panama scheme. One is that it appears from this financial statement submitted to the shareholders, to which I have just alluded, that one of the items making up the $9,000,000 charged to the account of "preliminary expenses" before a shovel of ground had been turned was "$2,400,000 set aside for the American committee," and the other significant fact is to be found in the testimony of Charles Colne, general agent and secretary of the American committee, taken first in Washington before the Congressional committee, in 1893, and again before the Senate Committee on Interoceanic Canals, February 17, 1902, and in the report of Monchicourt, the Paris liquidator of the old company, to the judges of the civil tribunal of the Seine in 1890.

From both these sources it is made clear that the enormous sum of 12,000,000 francs, or $2,400,000, was paid by the De Lesseps combination, the old Panama Canal Company, to the American committee. That this was purely, solely, and emphatically a corruption fund in its most depraved and despicable sense is now, as it ever has been, evident to all. To tempt the cupidity of an aged and honored Cabinet member of the Hayes Administration, and if possible to bend that admirable Administration in the direction of their unholy purposes, a position as managing agent of the American committee, with an annual salary of $25,000, was held out as a bait, and which, unfortunately, proved too enticing even for that honored member of the Cabinet.

WE ARE INVITED BY THE SPOONER AMENDMENT TO PARTICIPATE IN A LOTTERY SCHEME.

I will say in this connection that we are invited, as it seems to me, Mr. President, by the Spooner amendment, and by the views of the minority of the committee, to participate in a lottery scheme, as I shall proceed to show.

The Nicaragua route should be selected, because the selection of the Panama route involves the necessity of buying out the New Panama Canal Company at the price of $40,000,000, and this involves the United States, indirectly, at least, just to what extent it is almost impossible to determine, in the old French lottery scheme of 1888, and I will tell you why.

On January 8, 1888, the French Parliament, at the solicitation

of Ferdinand de Lesseps and his associates and as a last desperate effort to save from bankruptcy and utter ruin the Compagnie Universelle du Canal Interocéanique, the Old Panama Canal Company, enacted a law authorizing that company to engage in a lottery scheme; that law authorized that company to issue securities to the amount of 600,000,000 francs, payable with prizes by lot, with the following conditions. I quote from the French law.

First. The securities shall bear annual interest, the rate of which can not be less than 3 per cent on their par value.

Second. The total annual sum distributed in the form of prizes can not, in any case, exceed 1 per cent of the par value.

Third. The par value of the securities issued can not be less than 300 francs; subsequent division of the securities issued is forbidden.

Fourth. The payment of this loan in a period of ninety-nine years, at fartnest, shall be secured by a sufficient deposit, for this especial purpose, of French Government bonds or of securities guaranteed by the French Government. The Compagnie Universelle du Canal Interocéanique de Panama, to meet the obligations imposed upon it, is authorized to increase, under the same conditions, the said loan of six hundred millions, by the sum necessary for this guaranty fund, this increase of loan not to exceed 20 per cent of the par of the issue.

By article 2 of this act of June 8, 1888, it is provided as follows:

ARTICLE 2. If the Compagnie Universelle du Canal Interocéanique de Panama should hereafter convert all or any of its former obligations, the provisions of article 1 shall be applicable to the new securities created by means of this conversion.

While by article 3 of this act it was provided as follows:

ARTICLE 3. All material necessary for the completion of the works shall be manufactured in France. The raw materials must be of French origin.

Here again let me call your attention to a difficulty right at this point. The New Panama Canal Company, which succeeded to the rights of the old Panama Canal Company, rest in part for what they have to sell upon French legislation, and French legislation was to the effect that if that company constructed that canal all the raw materials used in its construction must be of French origin. Query: We become the successors in interest of the New Panama Canal Company, as the New Panama Canal Company became the successors in interest of the old company. If we go on and construct that canal, must we follow this legislation? We are bound by it, are we not? If we are not bound by it, our title is not good; and if we are bound by it, we are bound to go to France for all of the raw material with which to construct this canal. This is a pretty spectacle for the Senate of the United States to place before the people of this country, as it seems to me.

Mr. MORGAN. If the Senator from Oregon will allow me to interrupt him one moment, I wish to state a fact.

Mr. MITCHELL. Certainly; I yield to the Senator.

Mr. MORGAN. As soon as that French law which the Senator has just read became public, a resolution was introduced into the Senate, was considered by the Committee on Foreign Relations, reported back by that committee unanimously, and passed by this body, I think, unanimously—I know there were not more than six votes against it—which declared that any interference on the part of any foreign government by its legislation or by any governmental act to assist in the building of a canal across the American isthmus would be resented by the United States. I will produce the resolution later, when I have the opportuuity.

Mr. MITCHELL. I am very much obliged to the Senator from Alabama, the chairman of the committee, for calling attention to this historical fact, which will appear, of course, in the records of the Senate.

Mr. President, a portion, not all, of these lottery securities were issued and disposed of by the old Panama Canal Company prior to its entering the regions of bankruptcy and the appointment of a liquidator or receiver. A large amount, however, of these securities remained on hand and undisposed of when that company became bankrupt, and on July 15, 1889—and I call special attention to this fact—the French Parliament passed another act, authorizing the sale of these lottery bonds then undisposed of at reduced rates. This act authorized the receiver of the old Panama Canal Company to—

negotiate at any price, and without interest, such of the lottery bonds authorized by the law of June 8, 1888, as had not been placed or sold up to the 4th day of February, 1889, when the said company was dissolved and was turned over into the hands of a receiver.

It was further provided in this act as follows:

That the sums resulting from negotiation or sale of the said bonds shall be free from attachment or execution up to the amount of 34,000,000 francs.

And further:

In case the receiver should contribute or give to a company formed for the purpose of completing the canal all or a part of the assets of the receivership, the new company shall only have power to emit and issue bonds as yet unplaced or unsold by complying with the terms of the law of June 8, 1888, touching the minimum price of sale, and the distribution of interest.

Under this act the receiver of the old company, under the immense discretion given him by the terms of the act, sold large amounts of these old lottery bonds at 105 francs, the same to be redeemable at 400 francs. In support of this statement I quote from the testimony of Mr. Charles Colne, who was the general agent and secretary of the American committee, which committee was composed of J. & W. Seligman & Co., Messrs. Winslow, Lanier & Co., and Messrs. Drexel, Morgan & Co. This testimony was given before the Senate Committee on Interoceanic Canals on February 17 last.

The CHAIRMAN. Were you in Paris at any time during your agency for this company?

Mr. COLNE. I was there in 1889, sir; directly after the failure of the company.

The CHAIRMAN. Directly after the failure?

Mr. COLNE. Yes.

The CHAIRMAN. It was while you were there that your connection with the company terminated?

Mr. COLNE. No; it terminated here in New York, but I was sent over by an American syndicate to see if I could buy the Panama Railroad.

The CHAIRMAN. You went for the purpose of buying the railroad?

Mr. COLNE. Yes.

The CHAIRMAN. How much of the stock of the railroad company did the old Panama Canal Company own at the time you went over?

Mr. COLNE. Nearly every share, with the exception, I think, of a little over a thousand shares.

The CHAIRMAN. Did you buy the railroad or make a contract for it?

Mr. COLNE. No, sir; I could not. The Government came to the aid of the receiver and authorized him to sell some of the old bonds at 105 francs, redeemable at 400 francs.

The CHAIRMAN. What old bonds; the old bonds of the company?

Mr. COLNE. Yes.

The CHAIRMAN. How was he to sell them—at 105 francs, you say?

Mr. COLNE. At 105 francs. That was the sale price and they were to be redeemed at 400 francs.

That is the testimony of the agent of the American committee of the old Panama Company.

Senator KITTREDGE. Do you mean the lottery bonds?

Mr. COLNE. The lottery bonds, yes; and 60 francs of each subscription was held aside for a redemption fund, or the lottery fund. The receiver, Mr. Burnet, received actually in cash only 35 francs for each bond.

Senator KITTREDGE. What was the face value of these bonds?

Mr. COLNE. Four hundred francs.

Their face value was 400 francs, and they were sold at 105.

The CHAIRMAN. You say the Government came to the assistance of the company?

Mr. COLNE. Yes.

The CHAIRMAN. In what way—by an act of Assembly?

Mr. COLNE. By an act of the Assembly. Mr. Burnet first applied to the council of ministers, which is the first step to take. They refused him. Things were in a very critical state then. I got this directly from Mr. Burnet because in my negotiations with him he was very friendly and very pleasant. He applied to the council of ministers. They refused him, and as he had not any money at all, not a cent, he said to them substantially—

I call attention to this—

"Now, unless you grant me this authority I wish you to understand the elections are coming on, and I have got 800,000 subscribers, and you will hear from them." So subsequently, a few months after that—I think it was about a month after that—the authority was granted him. I will send you the prospectus of that loan.

The CHAIRMAN. What were the subscriptions of those people?

Mr. COLNE. Some of the old lottery bonds that were remaining in the treasury of the company.

The CHAIRMAN. There were not 800,000 of them, were there?

Mr. COLNE. The bonds that had been subscribed before were by 800,000 people.

The CHAIRMAN. You mean the bonds and the stock, do you not?

Mr. COLNE. All of it; yes.

The CHAIRMAN. The bonds, the stock, and the lottery bonds?

Mr. COLNE. The lottery bonds, the other bonds, and the stock.

Senator HANNA. Where did you get those figures?

Mr. COLNE. I got them from Mr. Burnet.

Senator HANNA. That is what he told you?

Mr. COLNE. Yes.

I have stated heretofore that the New Panama Canal Company is simply the old one in a new dress and under a new name. In corroboration of this let us inquire who compose the shareholders of the New Panama Canal Company? They are, in the main, the corporations, loan associations, administrators, contractors, and others, all of whom were connected in one way or another with the scandals of the old Panama Canal Company and all of whom profited through those scandals. The fact is, that pending a series of suits brought by the liquidator to compel these parties to disgorge, compromises were effected, the conditions of which were that the parties, respectively, being prosecuted should subscribe for stock in the new company, and the prosecutions against them, respectively, should be dismissed, and by this arrangement the 60,000,000 francs, being the original capital stock of the new company, were subscribed by these parties, as follows:

	Francs.
Eiffel, of Eiffel Tower fame	10,000,000
Crédit Lyonaise	4,000,000
Société Génerale	4,000,000
Crédit Industriel et Commercial	2,000,000
Administrators of the old Panama Canal Company	7,885,000
Artigue Sonderegger & Co	2,200,000
Bartoux, Litellier & Co	2,200,000
Jacob heirs	750,000
Convreux, Hersent & Co	500,000
Various persons to the number of 60 who had profited by syndicates created by the old company	3,235,700
Hugo Oberndorffer	3,800,000
By subscription	3,484,300
The liquidator or receiver of the old company	15,895,000

These several subscriptions made up the full amount of the original stock of the new company, namely 60,000,000 francs. These facts appear in the fourth report of the liquidator to the French court, dated November 26, 1895, pages 8, 9, and 13. That

is a matter which I investigated personally when in Paris last summer; and all I say is confirmed by the records now before the Senate.

The old Panama Canal Company, between the date of its organization and the date of its downfall, February 4, 1889, issued and put on the market in all nine separate and distinct issues of bonds, amounting in the aggregate to 1,271,682,637.57 francs, or $254,336,527. Of these, two series were lottery bonds, one of 254,603,871.73 francs and the other of 68,732,694.95 francs. This does not include the sale of lottery bonds by the receiver of the old company, nor does it include any of the shares of stock issued at different times. According to the report of the Isthmian Canal Commission, the total receipts of the old company, including the amounts due up to date, June 1, 1890, was 1,329,693,078.74 francs. The securities, bonds, stocks, etc., issued by which this amount was realized had a total face value of $435,559,322.80. This is the report of the Commission, whose recent report we are considering.

Mr. MORGAN. Is that the amount of money that the old Panama Canal Company had to handle?

Mr. MITCHELL. Yes, sir.

But not only so. It is not only a fact that the present stockholders of the New Panama Canal Company, as I have stated, are composed of persons natural and artificial, all of whom were connected with the abominations of the old Panama Canal Company, most all of whom were not only prosecuted for corrupt practices, but many of them convicted, but there is a further significant fact, not to be lost sight of in determining the question as to whether it is wise upon the part of the United States to connect itself with this property by a purchase of the same from the new company at the price of $40,000,000, and that is this: According to the testimony taken by your committee, the old Panama Canal Company, through the liquidator, is to receive 60 per cent of the purchase price should a sale be made by the new company to the United States.

The liquidator represents the old company, its hundreds of thousands of shareholders and bondholders—lottery bonds and other bonds. Should the sale be made, a report on that sale must be made to the French court before whom all of these bankruptcy proceedings are still pending. Any one or any number of these shareholders and security holders of the old Panama Canal Company have a right under the laws of France to file his or her objections to the report. They may take the position, either individually or by any collective number, that the liquidator had no power or jurisdiction to enter into the agreement which it is said he did enter into and by which, in the event of a sale of the property, the shareholders, bondholders, and security holders were to receive but 60 per cent of the amount. The other 40 per cent, it is presumed, goes to the shareholders in the new company. It will be the duty of the court to investigate and pass upon these multitudinous questions, involving the rights of this vast number of shareholders and security holders, the power of the liquidator to enter into this contract, and, after the adjudication is made, it must be remembered this court in which these proceedings are pending is not a court of last resort, but an appeal lies from the decision to the court of ultimate resort in Paris.

It will be remembered by the terms of the transfer of the property of the old company to the new company, which took place in 1894, it was stipulated and agreed that the liquidator, for the benefit of the shareholders and bondholders of the old company, was to receive 60 per cent of the net profits arising from the construction of the canal by the new company; and one of the conditions of that transfer was, not that the new company should sell out the property either to the United States or to anyone else, but that the new company should proceed to complete the canal. This was the condition upon which the liquidator made this transfer; when subsequently, without the consent or authority of any of these shareholders or security holders, this arrangement is changed, recently, within the last year or so, by which the liquidator agrees to sell the property, no amount being stipulated by the French court or by the liquidator, either forty million or forty hundred million or any other amount, but simply that there might be a sale and that the liquidator should receive 60 per cent of the amount received on the sale.

In view of all these complications, in view of the fact that both the old canal company and the new canal company are still in the French courts, would any wise man in his senses risk the venture of investing $40,000,000 in a property whose title is so clouded in so many different respects? Our friends on the other side may answer, and do answer, by saying that if the Spooner amendment is adopted and the President can not obtain a satisfactory title that then the way is open to construct the Nicaragua Canal. But let me tell you, Mr. President, the place and time to determine whether it is wise to have anything or nothing to do with this Panama venture is here and now.

As bearing upon the questions to which I have just been attracting attention, I desire to call the attention of the Senate to the testimony of Hon. Samuel Pasco, one of the members of the Isthmian Canal Commission, who, as stated very correctly in the views of the minority, was selected as a legal authority to be a member of that Commission, and who was recognized by the Commission as its legal adviser. In Mr. Pasco's testimony taken before the Senate Committee on Interoceanic Canals, February 11 last, he testified as follows:

Mr. FAIRBANKS. From what page of the record is the Senator reading?

Mr. MITCHELL. I really can not give the Senator the page now, as I am reading from copy; but the Senator will find it by turning to the testimony of Mr. Pasco before the committee. It is, I think, in part No. 1 of the hearings.

The CHAIRMAN. The obligation of the new company was to build the canal and to operate the canal. Now, this company proposes to sell to this Government all of the rights, privileges, and property which it acquired from the old company for $40,000,000. In the purchase of these rights of this property will not this Government assume all the obligations of the new company to the old company?

Mr. PASCO. No; they must be settled in the process of this transaction.

The CHAIRMAN. How would they be settled?

Mr. PASCO. They will be settled through the receiver, the receiver joining in the transaction, becoming a party to the sale and receiving the proceeds of whatever interest he has as a representative of the creditors and the stockholders of the old company. These proceeds will have, as I have stated, to take the place of the property itself and will be distributed under the order of the court, just as in a case of a legal sale in this country where there are a number of different liens and obligations against a piece of property—judgments, perhaps, and mortgages and liens of different characters, general creditors, and owners. The property is sold, the proceeds are paid into court, and then the proceeds are distributed under the order of the court. Then all the old claimants are eliminated. Settlement with them is made by the court. This is a kindred proceeding to that, according to my understanding.

The CHAIRMAN. The liquidator of the old company of course represents the stockholders and creditors, and in agreeing to this sale of course he is changing the whole nature and character of the contract with the new company originally assumed in the purchase?

Mr. PASCO. Yes.

The CHAIRMAN. Now, can the liquidator, regardless of the rights of the stockholders and creditors, enter into a contract with this Government or any other party by which the whole nature of the original contract is changed, and relieve the Government or the purchasing party of the obligations which the new company assumes toward the old company?

Mr. PASCO. I do not think he can of his own volition. I think he can submit the whole matter to the court under whose jurisdiction he is serving and acting.

Senator MITCHELL. At the time this original transfer was authorized by the liquidator—I mean the sale of the property of the old company to the new canal company—there was nothing in that transaction, was there, either directly or indirectly, which contemplated a sale of this property to the United States?

Mr. PASCO. No.

Senator MITCHELL. None at all. It was to be transferred and they were to get their share in the property. The transaction contemplated that the new company would go on and construct the canal?

Mr. PASCO. Yes, sir.

Senator MITCHELL. Now, Mr. Pasco, is it not a fact that the new company is now and always has been a solvent company?

Mr. PASCO. I so understand.

Senator MITCHELL. Has it not a large amount of money in the treasury now?

Mr. PASCO. I do not know how much.

Senator MITCHELL. Three or more million dollars?

Mr. PASCO. It has money in its treasury.

Senator MITCHELL. Was there ever a time since it was organized when it was not solvent?

Mr. PASCO. I understand it has always been solvent and is now.

Senator MITCHELL. Now, I would like you to explain, for my satisfaction, how a court in France obtains jurisdiction of this company so as to authorize it, a solvent company, which always has been solvent, to transfer all its property in violation of the existing agreement by which it was to go on and construct this canal. How does the French court get jurisdiction to do that thing?

Mr. PASCO. The company has the power to dissolve itself whenever the circumstances justify.

That was the only answer that Senator Pasco could make to that proposition.

Senator MORGAN. Under what law?

Mr. PASCO. Under its charter.

Senator MORGAN. You mean the statutes?

* * * * * * *

Senator MITCHELL. What is troubling me is this: Of course, I want to get at the facts at the bottom of all these legal difficulties, if there are any legal difficulties. Here is a company that is insolvent and is in court, and it owns certain property.

Mr. PASCO. Which company do you mean?

Senator MITCHELL. I mean the old company. The old company owns a certain amount of property.

Mr. PASCO. The liquidator of the old company owns it.

Senator MITCHELL. The liquidator or receiver under the order of the court is authorized, acting for the old company and for the stockholders, to sell all this property to another company, to an outsider, on certain terms and conditions, the terms being that the new company shall go on and build the canal.

Mr. PASCO. And the court considering at that time that it was a favorable agreement——

Senator MITCHELL. The old company, through the liquidator, as a consideration is to receive 60 per cent of the net profits that shall accrue by reason of the construction of the canal. Now, that contract is entered into. It is an accomplished fact. The title is vested in the new company, which is a solvent company. What is troubling me is this: How can the French court make an order that will authorize the new company to divert the whole business from that contemplated by the original arrangement and sell out the whole thing for a certain specific sum to the United States or somebody else,

so as to bind in any manner, shape, or form the old company or individual stockholders? That is the question that is troubling me.

Mr. PASCO. At the time the order of sale was made that seemed to be the best use to which the property could be put. It was transferred to the new company with the understanding that the liquidator was to share in the rents, issues, and profits. But supposing a change takes place in the situation, and it is found that the original purpose can not be accomplished, and the court sees that it is to the better advantage of the stockholders and the creditors to have a final disposition made of the interests within its charge rather than to continue it under this former arrangement? Is it not within the power of the court to change the disposition of the property instead of continuing this use of it, to have it sold and divide the proceeds among the parties?

Senator MORGAN. You ask a question, and now I will be very much obliged to you if you will answer it.

Mr. PASCO. I say that was the action of the court. The court decided, in its judgment, that it is better that that arrangement be discontinued, and that a new agreement be made by which the property is to be sold, and all the parties interested in it are to be allowed to receive their proper share of the proceeds.

Senator MORGAN. Do you think that the court had that authority?

Mr. PASCO. I do.

Mr. President, I am not finding fault with anything Commissioner Pasco says here. He simply gives us his opinion, but that opinion leaves the whole matter in confusion and doubt.

Mr. FAIRBANKS. Will my good friend allow me to ask him a question, simply to get at his view, without desiring in any way to interrupt him?

Mr. MITCHELL. Certainly.

Mr. FAIRBANKS. I should like to ask the Senator if his position is that there is no power, in view of this contract made between the liquidator and the new company, for the sale of this Panama property either to the United States or to anybody else?

Mr. MITCHELL. I will say that I think, for that and other reasons, it is extremely doubtful, to say the least.

Mr. FAIRBANKS. Doubtful whether they have the power now to sell to the United States or to anybody else?

Mr. MITCHELL. I think it is a question of very serious doubt, a question of very grave doubt, whether the New Panama Canal Company has, by anything or by all that has occurred since 1894, been released, so as to bind the shareholders and bondholders of the old company, from the obligation imposed on it in 1894, to go on, as one of the conditions on which it became the owner of the property, and complete the construction of the canal.

Mr. FAIRBANKS. Although it is recognized by the parties interested in the property and by the entire world that the enterprise has not succeeded and is a dead failure in the hands of the present company?

Mr. MITCHELL. I think the fact whether it is a failure or not does not change the legal proposition at all; and all agree that it is a failure.

Mr. FAIRBANKS. By this agreement the stockholders and creditors of the old company will receive 60 per cent of the $40,000,000, but under your contention that there is no power in the new company to alienate the property and divest themselves of title they must lose it all?

Mr. MITCHELL. That is right in the event the new company fail to comply with its obligation of 1894 to go on and complete the canal; but I say further that, even admitting that legally they have the power to make a transfer, the question is still remaining in the French courts as to the distribution of the money, and we take the chances of the 60 per cent ever going to the liquidator, or to the men whom the liquidator represents. The shareholders have a right to contest all these things in the inferior court; the right of appeal exists, and controversies may, and will, as I think, be engendered there that will not be ended for years, and in the meantime it may result in stopping work on the canal.

Mr. FAIRBANKS. With the permission of my good friend, I wish to ask him one other question. Is not that a controversy over the fund solely, and having no relation to the corpus which we acquire by this purchase?

Mr. MITCHELL. I do not think so. I think if we buy this property we take it subject to every condition of the French law and to every condition attached by any decision of the French courts, and if it should turn out that we are not conforming to those conditions we are liable to get into very great difficulty.

Besides, the distinguished Senator from Indiana will bear in mind that it is agreed on all hands that the New Panama Canal Company is a solvent company with 16,000,000 francs in its treasury. It became the absolute owner of this property more than eight years ago. The title to the property then vested in this solvent company, subject to certain conditions, namely, that this new company should construct this canal and should pay to the liquidator 60 per cent of the net profits arising from the construction of the canal. I deny the right, therefore, the jurisdiction of the court to control this new solvent company by a new arrangement releasing this company from the duty of constructing the canal and authorizing it to sell and dispose of all its property as though it were a bankrupt concern.

As bearing upon the general subject under consideration, I may be permitted to quote the following letter from Hon. W. Lair Hill, who spent the greater part of last year in Nicaragua and who is one of the prominent lawyers of the Pacific coast. The letter was published in the Oakland Enquirer, Oakland, Cal., February 5 last, and is as follows:

OAKLAND, *February 4, 1902.*

EDITOR ENQUIRER: From a letter received by me a few days ago from a well known and prominent American now residing in Central America, and who years ago was domiciled for some years in Nicaragua, and afterwards for a time at Panama, I take the following paragraphs relative to the isthmian canal, which I think may be of interest to your readers:

"The Panama Frenchmen having dropped their price to $40,000,000, which the Commission considered their work worth, and the House having passed the Hepburn bill, upon the Senate is now placed the responsibility of more delay or legislation. The opponents of legislation will shout for Panama, hoping thereby to create a diversity of opinion between the House and the Senate, and thus prevent construction. * * * Even if the Panama work were offered us at $5,000,000 it is not desirable, being on the outside line and in so unhealthful a region that a canal there will cost thousands of lives and millions of dollars additional, with consequent delay in construction. Having lived on the Panama Isthmus a year I know what it is. The yellow fever and pernicious malaria are epidemic at Panama every season and unknown in Nicaragua.

"The Canal Commission were obliged to delay examination of the Panama Isthmus for some months, owing to prevalence of yellow fever there, but commenced at Nicaragua immediately after the bill was passed which enabled their appointment. The same old gang that created the odious Panama scandal at Paris, which sent several of the French 'corps legislatif' to prison (among them Charles De Lesseps for six years), others to compulsory exile, and poor old De Lesseps, sr., to a dishonored grave, are now trying to create at Washington a second Panama scandal to disgrace our Government as they did their own for their personal profit; and are aided by recreant Americans in their pay or interested with them from selfish motives."

That company, as matters now stand, has no power to give us a clear title. This of itself ought to end the matter; but in addition to all that, I believe the Nicaragua route is the proper place and the one that will be of the greatest benefit to commerce, and in every way better than the Panama route.

So it is seen that those who are best qualified to judge correctly are ranging themselves on the side of that route which opens the best prospects of advantage to American commerce and enterprise—the Nicaragua route.

Very respectfully,

W. LAIR HILL.

I also beg the attention of the Senate to the following letter from Martin Quinn, of Seattle, State of Washington, received by me in December last. Mr. Quinn is a prominent civil engineer of the Pacific Coast. The letter, written after five months' residence on the Isthmus for the purpose of investigating, speaks for itself.

SEATTLE, WASH., *December 31, 1901.*

Hon. JOHN H. MITCHELL,
Washington, D. C.

MY DEAR SIR: My motive must be my excuse for troubling you to read this letter. The press dispatches tell us that the Panama Canal Company offer the hoodooed ditch for $40,000,000. I was over the Nicaragua route three years ago, and after looking the country over very carefully, and making a five months' study of its possibilities, I am convinced that the United States would make a great error in adopting the Panama route, even if the same could be secured without cost.

My reasons for such belief are as follows: First. The Nicaragua route runs through a more healthy country than the other route.

Second. It is much better in point of saving time and distance between our Atlantic and Pacific ports.

Third. There is an abundance of fresh water, and this extends the entire length of the proposed canal.

Fourth. Five or six railroads will extend north and south from the canal into Costa Rica, Nicaragua, Honduras, and Salvador, penetrating a country of wonderful fertility, and with an aggregate population of perhaps 2,000,000 of people. The trade of this region would soon be ours, and we need it.

At the western entrance to the canal would spring into existence a city, which in ten years would have a population as large as San Francisco. This is no dream, when we remember that there is no land-protected harbor from Acupulco to Guayaquil. This would be an American city, with proper sanitary laws and arrangements, such as no city in Central America, Mexico, or northern South America at present possesses.

Fifth. Lake Nicaragua, with its surface area of 2,600 square miles, would be an ideal rendezvous for our Navy. A fresh-water anchorage would be a most desirable thing, particularly so when so centrally located in a part of the world where our interests are so great and increasing with every year that passes.

The Panama has no such country in its immediate vicinity as the Nicaragua has. The adoption of the latter means an immediate demand for American rails and rolling stock in great quantities and the Americanization of Costa Rica and Nicaragua in ten years. It would be a great thing for America commercially and a good thing politically for the Republican party.

Yours, very respectfully,

MARTIN QUINN,
818 Second Avenue, Seattle, Wash.

I submit, enough has been shown in the record in this case, and now before the Senate, to cause a halt upon the part of Senators urging the adoption of the Spooner amendment.

Diplomatically a conclusion may be reached that we can obtain a satisfactory title—that is, one satisfactory to diplomats—to the property in question, and based on such a decision the President may proceed to expend $40,000,000 in the purchase of the property. And yet, notwithstanding all this, away off and beyond it all, there may be, and unquestionably will be, innumerable claims, based upon alleged equities that will not be cut off and with which the United States will be compelled to contend for an unlimited number of years.

According to the testimony of Mr. Charles Colne, the secretary and manager of the American committee of the old company, there are to-day 800,000 people interested in one way and another

as shareholders or security holders of the old and new companies. This will appear from his testimony, page 216, as follows:

Senator HAWLEY. About how many claimants are there in France? How many people have stock or obligations of any kind that have been made as claims against this company in case it goes on and builds a canal?
Mr. COLNE. About 800,000 subscribers.
Senator HAWLEY. About 800,000 people?
Mr. COLNE. Yes.

THE VIEWS OF THE MINORITY.

In the additional views of the minority of the Senate Committee on Interoceanic Canals, presented to the Senate on May 31 last, and in connection with which they propose as a substitute for the pending bill what is known as the "Spooner amendment," the minority say:

The substitute which we advise insures an isthmian canal and, in our judgment, more surely, satisfactorily, and speedily than by any other plan.

This of course is undoubtedly the sincere judgment and conviction of the minority. But if I desired to defeat absolutely any legislation at this time looking to the early construction of an isthmian canal, I do not know of any better method I should adopt than to support the proposed substitute.

The minority of the committee in their views submitted May 31, while insisting strenuously that Congress should be guided by the report of the Isthmian Canal Commission, insist that the Nicaragua route is so liable to be disturbed by earthquakes and volcanoes that Congress should not, for this reason alone, adopt that route, and the minority enter into an extended argument in which they contrast the seismic disturbances of the two routes to the great disadvantage, according to their views, of the Nicaragua route.

Now, Mr. President, permit me to quote from the report of the Isthmian Canal Commission submitted to the President May 9, 1899, in which in discussing the subject of earthquakes and volcanoes the Commission say this:

From the most reliable data obtainable the Commission believe that the *Nicaragua route is practically exempt from any seismic influence of sufficient force to cause destruction or danger to any part of the canal route or suspension of its traffic.* Dr. C. W. Hayes has treated this question fully in his report. He says:

"Earthquakes due to dislocation of strata (faults) are perhaps no more liable to occur in the vicinity of the Nicaragua route than elsewhere, and hence they do not constitute a danger which is peculiar to this region more than to almost any other in which a ship canal might be constructed."

He then proceeds to discuss those due to volcanic agencies at some length, but concludes that these activities are on the wane and so remote from the route as not to constitute a menace. In quoting from Major Dutton, he adds:

"Briefly, then, the risk of serious injury by earthquakes to the construction proposed for the Pacific section of the canal is so small that it ought to be neglected * * * also that the risks on the Atlantic section are still smaller than those of the Pacific section."

While the Commission in their final report, that is, the one submitted to the President November 16, 1901, in speaking of the subject of earthquakes, reiterate these views in still stronger terms, as I have already pointed out.

THE REASONS GIVEN BY THE ISTHMIAN CANAL COMMISSION FOR THE CHANGE FROM THEIR RECOMMENDATION OF THE NICARAGUA ROUTE, IN THEIR FINAL REPORT, TO THE RECOMMENDATION OF THE PANAMA ROUTE IN THEIR SUPPLEMENTAL REPORT, ARE WHOLLY INADEQUATE.

It is perfectly apparent to all that the change of the recommendation of the Isthmian Canal Commission from the Nicaragua to that of the Panama route is based purely and solely on what they conceive to be a saving in the expense of the construction of the canal of the amount of $5,630,704.

In other words, the sum and substance, free from all minor and unimportant considerations, of the reports of the Isthmian Canal Commission is this:

We for many reasons—commercially, military, hygienic, seismic, and otherwise—believe the Nicaragua route to be the better route for an isthmian canal, and we so report and recommend. But inasmuch as the construction of the canal over the Panama route, which commercially, military, hygienic, seismic, and otherwise we believe to be inferior to the Nicaragua route, can be constructed for $5,630,704 less than the other, therefore we, in our final supplemental report, recommend that route.

Can it be possible that the Senate of the United States, in a great international enterprise like this, costing nearly $200,000,000, and which is intended for all time to vitally promote and, in short, revolutionize for the better, the commerce of the world by uniting by a gigantic artificial ship channel the two great oceans of the world, will permit this comparatively paltry difference in the cost of construction, this mere bagatelle compared with the magnitude of the enterprise and of its cost, to control its action to the extent of setting aside the better route and accepting an inferior and for many reasons objectionable route? The Isthmian Canal Commission must furnish me with a better reason than this before they can expect me to reject and set aside their recommendations in their report of November 16, 1901, wherein, at page 263, they said this:

After considering all the facts developed by the investigations made by the Commission and the actual situation as it now stands and having in view the terms offered by the New Panama Canal Company, this Commission is of the opinion that "the most practicable and feasible route" for an isthmian canal to be "under the control, management, and ownership of the United States" is that known as the Nicaragua route.

Mr. President, there is danger in delay; there is a great commercial loss in delay. The best of the world's economists estimate the earnings of the world's commerce to be $1,200,000,000 annually, and if an isthmian canal will save but one-fifth of the time and distance, it would represent about $250,000,000 annually, so, as stated by one of the members of the Isthmian Canal Commission, while this question is held in abeyance, awaiting the decision as to routes and policies, the commerce of the world is subjected to this enormous and useless waste, which would be sufficient to build the canal each year.

But to recur again to the history and frauds of the old company, in the meantime work was commenced on the canal and for a time carried on with some show of good faith. De Lesseps again, in 1886, went to the Isthmus, returning only with new devices and new schemes looking to the extraction of more money by the million from the French people and the French Government. On his return to France he publicly proclaimed that "most of the work was done," and announced the canal would be completed within three years from that time, but these statements were coupled with the further statement that more money must be raised.

Then it was that the great lottery scheme was resorted to. Application was made to the French Parliament by the Panama Canal Company, the real title of which was Compagnie Universelle du Canal Interocéanique, but now generally understood as and called the "Old Panama Canal Company," for permission to issue a loan of 600,000,000 francs ($120,000,000) with lottery prizes. The scheme failed in 1886, but two years later it was made a success by means of the most stupendous system of corruption of public men and of the press the history of the world has ever known. On the failure of the passage of the lottery bill through the French Parliament in 1886 De Lesseps withdrew his application and obtained permission from the stockholders to issue a new series of bonds. This was a success, and many million more francs passed from the pockets of the French peasants to the treasury of the old Panama Canal Company. Millions of these bonds are still outstanding, unredeemed, in the hands of the French people.

But although the lottery loan was authorized, subscriptions to that loan failed to materialize, and the necessary amount of $120,000,000, this being the amount—although it was many million dollars less than the amount actually necessary for the completion of the canal—with which De Lesseps declared he could complete the canal in three years, was not subscribed for. Two million of these lottery bonds were issued, the nominal value of each being 360 francs, bearing interest at the rate of 4 per cent per annum, all of these being payable at 400 francs each by a civil amortization association and sharing in the semimonthy drawings; but of these 2,000,000 lottery bonds issued only 800,000 were subscribed for.

The failure to float this loan marked the downfall of the old Panama Canal Company, and following speedily in the wake of this downfall came parliamentary and judicial investigations and trials and the opening of prison doors to the promoters of the most detestible and stupendous fraud of either ancient or modern times. The parliamentary and judicial investigations which followed in the wake of this appalling and apparently irresistible avalanche of corruption developed the startling and almost incomprehensible fact that more than 436,000,000 francs, or about $86,800,000, had been expended in promotion and corruption, to say nothing of the further facts disclosed by these investigations and prosecutions, that four contractors alone had realized net profits on their contracts of a fraction over 75,000,000 francs, or about $15,000,000.

Such a boodle fund as that, more than $90,000,000 in gold, would, in comparison, render insignificant, infinitesimal, and a mere bagatelle the largest corruption fund ever raised for any corrupt purpose by the most depraved people of the most debased age in the world's history.

Before this fearful ingulfing flood French cabinet ministers, senators, deputies, scientists, statesmen, bankers, financiers, politicians, and journalists went down in one damning whirlpool to irretrievable political and moral death.

Standing on the verge of the grave, the great engineer, Ferdinand De Lesseps, tottering under the weight of more than eighty years, together with his son, Charles De Lesseps, were convicted and sentenced each to pay a fine of 3,000 francs and to be imprisoned for five years.

Here are some of the names of eminent men who fell before the temptation placed before them. I read from the very carefully prepared magazine article of Mr. Rawson Bennett, published in January last, in which the history of these investigations and trials is accurately stated. He says:

Mr. Louis Andrieux, formerly prefect of police, on December 22, appeared before the committee of inquiry. He produced a photograph of a memorandum made by Reinach of sums paid to deputies, senators, and ministers.

The original list was in the possession of Cornelius Herz, then a fugitive in England. Among the entries on this roll of infamy were the following:

	Francs.
To Floquet, minister of the interior and premier, "for political purposes."	250,000
To Floquet	20,000
To Barbe, minister of agriculture	550,000
To Rouvier, minister of finance and premier	40,000
To Rouvier, again	40,000

To Arene, Deves, Albert Grevy, Jules Roche, Proust, Beral, and Thevenet, 20,000 francs each.

To Fauconnerie and Renault, 25,000 francs each.

Distributed by Arton among 104 deputies 1,350,000 francs.

Mr. Bennett, proceeding further in his article, says:

On January 10, 1893, the two De Lesseps, Fontane, Cottu, and Eiffel were brought to trial. Ferdinand De Lesseps was physically and mentally unable to appear in person, having fallen into a state of imbecility that continued until his death. Charles De Lesseps took upon himself the whole responsibility. He admitted he had submitted to the extortions of Reinach, Baihaut, and other blackmailers, permitted the fictitious syndicates under cover of which they worked, and connived at the bribery of the press and corruption of senators and deputies. He related in detail the promotive operation of the Panama Company. Some of the most striking passages of his testimony follow:

"After the first subscription failed we were told that my father's name was not enough—that we must have the support of MM. Levy Cremieux, of the International Bank; Girardin, Genty, and Giblat, the Petit Journal (the most widely circulated French paper), the Semaine Financière, and the chief Paris and provincial papers. All this was to cost 800,000 francs. Reinach finally succeeded Cremieux as chief financier. We were flooded with offers of help—demands for blackmail—and being unable to judge of them I left that task to Reinach. I took care not to ask him what he did with the money. Nearly all the papers were holding out their hands."

What a comparison is this with the American press, where a journal is seldom known to have yielded to improper influences.

I considered it necessary at any price to finish the canal. Reinach asked for ten or twelve million francs for "publicity" and was given five millions. Half a million was given to Herz. Everybody knows what his influence was. In 1886, when we were applying for the lottery loan bill, M. Baihaut, minister of public works, asked me for a million francs, one installment to be paid when the bill was introduced, and the second when it passed. As it did not pass I gave him only 375,000 francs.

A pretty good price simply for introducing the bill.

Arthur Meyer, editor of the Gaulois, was given 100,000 francs for that paper's support.

Marius Fontane, formerly secretary of the Suez Company, and holding the same post in the Panama until 1886, when he became director and F. de Lesseps's private secretary, admitted paying 1,362,000 francs ($272,400) to the press in 1882 for favorable notices.

A pretty good press contract.

Among the subsidized papers was the Télégraphe, of which Minister De Freycinet was chief owner.

Gustave Eiffel admitted paying Senator Hebrard, principal proprietor of the Temps, 1,750,000 francs, or $350,000. He wrote to Hebrard: "I reserve you 5 per cent commission, and you and your friend will be good enough to continue your support." Eiffel also admitted that his profits from the Panama machinery contract were 33,000,000 francs ($6,600,000), and that he had received 12,000,000 francs ($240,000) for materials worth but 2,000,000 francs (or $40,000), and 6,000,000 francs ($120,000) for transportation of machinery never delivered at all. It was afterwards shown that Eiffel had divided 13,000,000 francs ($2,600,000) of his profits in "commissions" with various politicians, financiers, and journalists in a position to hurt or help the Panama scheme.

Mr. Bennett, proceeding further in his magazine article, says:

On March 8 the accused legislators were called for trial. Charles De Lesseps repeated his previous testimony and added some details as to his dealings with Reinach, Herz, and Arton. Minister De Freycinet had sent for him and advised him to do what he could for Reinach. Clemenceau and Floquet had made similar demands in behalf of Reinach and Herz. "It was not to my interest to fall out with the Government," commented De Lesseps, "and I did what I could for Reinach." Then Arton had asked for 300,000 francs for Floquet with which to fight the Boulangists in the Nord election, and an account was opened with Arton, ostensibly as a bond broker, but really to supply him with the funds to bribe deputies. De Lesseps also detailed anew his bribery of Minister Baihut, with whom arrangements were made through Fontane and Blondin, a clerk at the Crédit Lyonnais.

Mr. Bennett continues further, as follows:

March 10, 1893.—On this day was seen the memorable spectacle of a former minister of France, a man for years in public life, and a grandfather, standing up in open court and confessing his betrayal of his trust. Charles Baihut, minister of public works in 1886, who had sent Engineer Rousseau to Panama to learn the truth for the public benefit, confessed that he had suppressed Rousseau's report and used his official position to hold up the loan bill until bribed to introduce it. "I must have been mad," he said; "but I kept hearing how this one and that one was growing rich out of Panama, and they said to me, 'You are a fool if you do not get at least a million.'" He denied making the first demand to be bribed, and insisted that Charles De Lesseps, through Blondin, had first "offered to compensate him."

He publicly confessed receiving 375,000 francs for introducing the loan bill, of which Blondin took 70,000 francs as his "commission," and that he had stipulated for the rest of 1,000,000 francs when the bill was passed, and threw himself upon the mercy of the court.

Following Baihut's confession came the denials and excuses of the others accused. Ex-Deputy Sans Leroy admitted his sudden change of front on the loan bill of 1888, after making the acquaintance of Arton, and that he had soon after paid off about 200,000 francs of debts and mortgages, but he coolly defied the prosecutor to prove that this money came from Arton.

Senator Beral admitted receiving 40,000 francs from Reinach, but insisted it was for his "services as an engineer to certain mining companies in which Reinach was interested."

Deputy Fauconnerie admitted receiving 25,000 francs, but said it was given him out of "personal kindness" because of his losses in an earlier speculation, unconnected with Panama, into which Reinach had led him.

Ex-Deputy Gobron admitted receiving 20,000 francs, but said it was in payment for shares in a tannery company which Reinach had bought.

Deputy Proust insisted that his 20,000 francs was merely his legitimate profits from a syndicate in which he was with Reinach.

One and all denied that these operations, these "kindnesses," had in any way influenced their votes in Parliament.

Then came the excuses and explanations of the ex ministers. Floquet denied sending to De Lesseps for 300,000 francs for use in the Nord election, but admitted learning that the Panama Company was threatened with lawsuits, and advising De Lesseps to avoid them.

De Freycinet admitted counseling De Lesseps to avoid a lawsuit threatened by Reinach, as the scandal caused by this would be very detrimental to the public welfare. De Lesseps replied that the counsels of Floquet and De Freycinet had induced him to give Reinach 5,000,000 francs, as it was "not to his interest to fall out with the Government."

Mr. Bennett in his magazine article continues as follows:

In this connection a list, very incomplete, of the journals and editors accused of accepting Panama money to deceive the public, is of interest. Here are some of them:

The Petit Journal, 300,000 francs or $60,000, at the organization of the company and large sums afterwards.

The Télégraphe, Minister De Freycinet's paper, 120,000 francs or $24,000.

Jezlenski, director of the Telegraphe, 120,000 francs or $24,000.

The Gaulois, 150,000 francs or $30,000.

Arthur Meyer, editor of the Gaulois, according to Charles de Lesseps, 100,000 francs or $20,000; according to evidence found by the liquidator, 300,000 francs or $60,000.

The Radical, 100,000 francs or $20,000.

Senator Magnier, as director of Evenement, 50,000 francs or $10,000.

M. Patinot, director of the Journal des Batz, 40,000 francs or $8,000. Judging the fervor and ingenuity in falsehood of Paul Boiteau's articles in this paper some one must have got a great deal more.

Senator Hebard, director of the Temps, according to Eiffel, 1,750,000 francs, or $325,000, and also 5 per cent commission on Eiffel's contracts.

Paul de Cassagnac, of the Aurorite, according to his own confession, 45,000 francs, or $9,000; according to others, 63,000 francs, or $12,760.

Mr. Bennett, proceeding further, says:

From the foregoing, it is tolerably apparent what the old Panama Canal Company did and did not do with the millions it extracted from the pockets of the French people. From the report made by Liquidator Monchicourt, during the trial of the directors, on January 11, 1893, some interesting details are obtainable. They are shown in the following condensed balance sheet:

Cash actually received from the organization of the company until its suspension	1,434,000,000 francs, or	$286,400,000
Disbursements:		
Expenses of management	199,000,000 francs. or	30,800,000
Interest of loans	249,000,000 francs, or	49,800,000
For labor on the canal	107,000,000 francs, or	21,400,000
Paid to contractors	443,000,000 francs, or	88,600,000
Total nominally legitimate disbursements	998,000,000 francs, or	199,600,000
Balance for promotion and corruption	436,000,000 francs, or	86,800,000

To the corruption fund must be added at least one-third, taking Eiffel's testimony as a basis, of the 77,000,000 francs, or $15,400,000, profits which M. Monchicourt found that only four contractors had made. Hence the total amount spent for deception of the public and corruption of the press and of legislators was not far from $92,000,000, a "boodle fund" unequaled in history.

Mr. Bennett concludes as follows:

When the old Panama Canal Company collapsed it owed its shareholders and bondholders over $400,000,000. It had received over $286,000,000 in cash. The value of the actual canal digging done by both the old and new companies is liberally estimated by the Walker Commission at not more than $27,500,000. The existing plant is probably worth $5,500,000 more. The Panama Railway is worth nearly $7,000,000 more, but for that the Frenchmen deserve no credit. They found it there and merely kept it going. Thus, the net results of the French efforts at Panama is work worth about $33,000,000—less than one-third of the boodle fund—provided somebody can be induced to finish the job, and otherwise worth absolutely nothing.

Such is the Panama Canal as it was and is—conceived in fraud, born in deception, nourished in iniquity, living on lies and corruption, perishing of its own rottenness; ruining the fortunes and lives of thousands, bringing infamy to practically every man who even remotely approached it; nearly causing the patriotic Frenchmen to despair of the Republic; becoming a standing argument against the democratic principle and representative government, and still filling the world with the stench of its corrupt life and loathsome death.

This is the sewer the American people are asked to clean; this is the moral swamp they are asked to drain, and to whose dangers they are asked to expose their public men, and their whole citizenship. And for whose benefit? That a few speculative Frenchmen may sell their damaged merchandise, and a few of their American hirelings may earn the wages of shame. For that reason alone are the American people asked to risk the enormous physical loss and expose themselves to the certainty of moral defilement. For the solemn fact is that the Panama can not be touched with favor by capitalist, by investor, by promoter, by journalist, or by statesman without certainty of deadly moral infection. All the waters of the multitudinous seas can not wash Panama clean nor all the winds of heaven blow away its deadly miasmas. It is simply too rotten to be touched without defilement or even to be looked at without nausea.

Such are the facts about Panama and these facts it behooves every American public man, every American journalist—yes, every American citizen—carefully to consider. When he considers them fairly and honestly, with due regard to his country's welfare, political and moral, he can reach but one conclusion. Panama can not be touched with safety by the American people. It must be shunned as a place incurably affected with the most deadly moral plagues. It must remain what it was and is—a perpetual monument to human credulity and human villiany—a dung heap of crime and a sink of iniquity wherein no nation can delve without certainty of irremediable pollution.

Mr. HARRIS. Mr. President, I desire to occupy a small amount of time in addressing the Senate upon the subject now before it. It is so late in the afternoon that I believe I would rather go on upon Monday.

Mr. PLATT of Connecticut. With the Senator's permission, I

will make a motion that the Senate proceed to the consideration of executive business.

Mr. HARRIS. I yield for that motion.

The PRESIDENT pro tempore. The Senator from Connecticut moves that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After five minutes spent in executive session the doors were reopened, and (at 4 o'clock and 45 minutes p. m.) the Senate adjourned until Monday, June 9, 1902, at 12 o'clock meridian.

NOMINATIONS.

Executive nominations received by the Senate June 7, 1902.

POSTMASTERS.

Leander H. Miner, to be postmaster at Ferndale, in the county of Humboldt and State of California, in place of Leander H. Miner. Incumbent's commission expired June 3, 1902.

John Haig, to be postmaster at Le Roy, in the county of McLean and State of Illinois, in place of George Riddle. Incumbent's commission expired January 10, 1902.

Lon G. Hardin, to be postmaster at Ames, in the county of Story and State of Iowa, in place of Lon G. Hardin. Incumbent's commission expired March 9, 1902.

John D. Paddock, to be postmaster at Malvern, in the county of Mills and State of Iowa, in place of John D. Paddock. Incumbent's commission expired March 9, 1902.

William B. Arbuckle, to be postmaster at Villisca, in the county of Montgomery and State of Iowa, in place of William B. Arbuckle. Incumbent's commission expired February 25, 1902.

Cyrus McNeely Scott, to be postmaster at Arkansas City, in the county of Cowley and State of Kansas, in place of Richard C. Howard. Incumbent's commission expires July 1, 1902.

George T. Boon, to be postmaster at Chetopa, in the county of Labette and State of Kansas, in place of Joseph Craft. Incumbent's commission expired May 5, 1902.

Mark Swedberg, to be postmaster at Luverne, in the county of Rock and State of Minnesota, in place of Mark Swedberg. Incumbent's commission expired May 16, 1902.

Frank McCartney, to be postmaster at Nebraska City, in the county of Otoe and State of Nebraska, in place of Frank E. Helvey. Incumbent's commission expired March 31, 1902.

Chester H. Smith, to be postmaster at Plattsmouth, in the county of Cass and State of Nebraska, in place of Chester H. Smith. Incumbent's commission expired May 5, 1902.

Orange L. Bantz, to be postmaster at Humboldt, in the county of Richardson and State of Nebraska, in place of Orange L. Bantz. Incumbent's commission expired March 22, 1902.

George L. Davis, to be postmaster at Fonda, in the county of Montgomery and State of New York, in place of George L. Davis. Incumbent's commission expires June 13, 1902.

Edgar S. Clock, to be postmaster at Islip, in the county of Suffolk and State of New York, in place of Warren F. Clock. Incumbent's commission expires June 14, 1902.

James T. Pickering, to be postmaster at Lancaster, in the county of Fairfield and State of Ohio, in place of James T. Pickering. Incumbent's commission expires June 15, 1902.

Tulley McKinney, to be postmaster at Mechanicsburg, in the county of Champaign and State of Ohio, in place of Tulley McKinney. Incumbent's commission expired May 27, 1902.

Harriet F. Gault, to be postmaster at Media, in the county of Delaware and State of Pennsylvania, in place of Harriet F. Gault. Incumbent's commission expires June 10, 1902.

Francis M. Barton, to be postmaster at Terrell, in the county of Kaufman and State of Texas, in place of Francis M. Barton. Incumbent's commission expired May 24, 1902.

John M. Sloan, to be postmaster at Chase City, in the county of Mecklenburg and State of Virginia, in place of John M. Sloan. Incumbent's commission expired May 5, 1902.

Champ T. Barksdale, to be postmaster at Danville, in the county of Pittsylvania and State of Virginia, in place of Champ T. Barksdale. Incumbent's commission expires June 15, 1902.

James M. Vernon, to be postmaster at Everett, in the county of Snohomish and State of Washington, in place of James M. Vernon. Incumbent's commission expired June 3, 1902.

Rollin C. Lybrand, to be postmaster at Richland Center, in the county of Richland and State of Wisconsin, in place of Rollin C. Lybrand. Incumbent's commission expired January 12, 1902.

Logan G. Hysmith, to be postmaster at Wilburton, in the Choctaw Nation, Ind. T., in place of Millard F. Campbell, deceased.

Addison H. Frizzell, to be postmaster at Groveton, in the county of Coos and State of New Hampshire, in place of Napoleon B. Perkins, resigned.

R. P. Campbell, to be postmaster at Aberdeen, in the county of Chehalis and State of Washington, in place of Charles R. Bell, removed.

Harvey Springer, to be postmaster at Cambria, in the county of Weston and State of Wyoming, in place of John M. Righter, resigned.

CONFIRMATIONS.

Executive nominations confirmed by the Senate June 7, 1902.

POSTMASTERS.

W. E. Nipe, to be postmaster at Mount Carroll, in the county of Carroll and State of Illinois.

John E. Reynolds, to be postmaster at Redding, in the county of Shasta and State of California.

Frank E. Cushing, to be postmaster at Red Bluff, in the county of Tehama and State of California.

Thomas T. Dargie, to be postmaster at Oakland, in the county of Alameda and State of California.

John T. Lindley, to be postmaster at Ontario, in the county of San Bernardino and State of California.

Reuben A. Edmonds, to be postmaster at Bakersfield, in the county of Kern and State of California.

Fred W. Miller, to be postmaster at Oakesdale, in the county of Whitman and State of Washington.

John M. Frew, to be postmaster at Soldiers Home, in the county of Los Angeles and State of California.

James Ewart, to be postmaster at Colfax, in the county of Whitman and State of Washington.

Jacob Friendlich, to be postmaster at Mount Sterling, in the county of Brown and State of Illinois.

Alexander L. Hord, to be postmaster at Greenville, in the county of Bond and State of Illinois.

HOUSE OF REPRESENTATIVES.

SATURDAY, *June 7, 1902.*

The House met at 12 o'clock m.

Prayer by the Chaplain, Rev. HENRY N. COUDEN, D. D.

The Journal of yesterday's proceedings was read and approved.

APPROPRIATIONS FOR PUBLIC BUILDINGS IN SUNDRY CIVIL BILL.

Mr. CANNON. Mr. Speaker, I ask unanimous consent to pass the concurrent resolution which I send to the Clerk's desk.

The Clerk read as follows:

Resolved by the House of Representatives (the Senate concurring), That the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the sundry civil appropriation bill (H. R. 13123) are authorized to consider and recommend the inclusion in said bill of necessary appropriations to carry out the several objects authorized in the "act to increase the limit of cost of certain public buildings, to authorize the purchase of sites for public buildings, to authorize the erection and completion of public buildings, and for other purposes," approved June 6, 1902.

Mr. SULZER. Mr. Speaker, I object.

Mr. RICHARDSON of Tennessee. I ask the gentleman from New York to withhold his objection.

Mr. SULZER. I will withhold it, Mr. Speaker.

Mr. RICHARDSON of Tennessee. I would like to have the gentleman from Illinois state the object of this resolution. As I understand, it is to provide that the appropriation required under the act providing for public buildings may be included in the sundry civil bill. As I understand, if they are not put in there, under the law and under the custom they will have to be included in the general deficiency bill. I would like to hear the gentleman on that point.

Mr. CANNON. The sundry civil bill, under the rules and practice, is a bill that carries appropriations of this kind. Since the bill went to conference, however, gentlemen are aware that the omnibus public building bill has become a law. Now, then, this concurrent resolution, if it passes both Houses, authorizes the conference committee to consider and insert necessary appropriations to carry out that law. If it should not be so treated, then, if the point of order was made, as I understand the practice of the House, it will require a special rule to include those items on the deficiency bill. The normal place is to treat of it in the sundry civil bill.

Mr. RICHARDSON of Tennessee. I would like to ask the gentleman, if this resolution passes, if it is the object or if it will give any privilege to exclude from either the general deficiency or the sundry civil the amounts that are authorized under the omnibus bill for public buildings already passed?

Mr. CANNON. I will say, to speak for myself, that in my

judgment the public service in connection with the new legislation should be provided for. It is a continuing appropriation. I have already made inquiry, and it will take, from my standpoint, something over $6,000,000 that can be expended until the adjournment of the next session of Congress. From my standpoint and as one of the conferees I should insist on each and every item being cared for as the law provides.

Mr. RICHARDSON of Tennessee. And there will be no more opportunity to exclude from the sundry civil bill the amounts authorized than there would be from the general deficiency bill?

Mr. CANNON. Oh, no.

Mr. RICHARDSON of Tennessee. The object of putting them in the sundry civil bill is not to get rid of any of them?

Mr. CANNON. Oh, no.

Mr. BARTLETT. I would like to ask the gentleman from Illinois a question.

Mr. CANNON. Very well; I will yield to the gentleman.

Mr. BARTLETT. The gentleman says that the amounts proposed to be put in the sundry civil bill as the result of the public building omnibus bill would amount to seven or eight millions.

Mr. CANNON. Between six and seven millions would care for the public service until Congress could again appropriate. I will say that I am informed by those who have examined the omnibus bill that it provides the contract system for various authorizations, but sites are to be bought, and that money ought to be provided for at once. The sites must be obtained before they can begin to make their plans. Now, I have already caused inquiries to be made at the Supervising Architect's Office, and have already consulted with the gentleman from Nebraska [Mr. MERCER], chairman of the Committee on Public Buildings, and I will say that in my judgment it will be necessary to have somewhere between six and seven million dollars, which will be recommended in the conference report if the House conferees have their way. There is no disposition to fail to appropriate a single dollar that ought to be expended, this being a continuing appropriation and available until expended from the passage of the bill. Nor is there any disposition to put in anything that is not needed.

Mr. BARTLETT. The reason of my inquiry, if the gentleman will permit me, is, speaking for myself, a matter in which I am somewhat interested. There is existing law for the public building at Macon, but the omnibus public building bill contains an item that adds to the appropriation. The act of 1899 specifically appropriated the amount provided for to be expended there. The act which passed the House, known as the omnibus public building bill, increases the amount. Now, what I wanted to know was whether the committee of conference between the House and the Senate would be given the privilege to select what particular buildings should be provided for?

Mr. CANNON. Let me answer my friend on the exact point that he puts where the limit is broken or increased. The question would be asked of the Supervising Architect how much money is required under the new legislation to provide for the service of that construction until the 4th day of March next, and when he gives his answer, then, as one of the members of the conference, if this resolution is passed, that would be written in, if it was within my power. Of course it is in the power of the House, when it comes back, to reject the whole report.

The object is simply to give, in good faith, so far as I am concerned or have reason to believe, the amounts necessary on all these items.

Mr. BARTLETT. Then if this resolution be adopted we shall simply provide in the sundry civil bill for what the committee or the Supervising Architect may deem necessary in order that the improvement or construction of buildings may proceed until the 4th of March next, so that the Appropriations Committee at the next session of Congress would be called upon to supply simply the amount up to the limit fixed by Congress.

Mr. CANNON. Yes; in the event that the full amount has not been appropriated Congress would have an opportunity to give the full amount in the next year's bill. Under the law these appropriations are continuing and go into effect the moment the bill becomes a law. In this respect they are not like other appropriations that have to wait until the beginning of the next fiscal year.

The SPEAKER. Is there objection to the consideration of the resolution? The Chair hears none.

Mr. MERCER. The intention of this concurrent resolution is simply to provide appropriations when they may be needed by the Government as the work progresses?

Mr. CANNON. Precisely.

The question being taken, the resolution was agreed to.

On motion of Mr. CANNON, a motion to reconsider the vote by which the resolution was adopted was laid on the table.

KATHERINE RAINS PAUL.

Mr. BROMWELL. I desire to call up the report of the committee of conference on the bill (H. R. 11249) granting an increase of pension to Katherine Rains Paul. The report and statement have been published in the RECORD. I ask that the statement only be read.

The SPEAKER. In the absence of objection the reading of the report will be dispensed with and the statement of the House conferees read.

There was no objection.

The Clerk read the statement of the House conferees as published in the House proceedings of June 6.

The report was agreed to.

On motion of Mr. BROMWELL, a motion to reconsider the vote by which the report was agreed to was laid on the table.

FRANCES L. ACKLEY.

Mr. RUMPLE. I call up for present consideration the report of the conference committee on the bill (H. R. 9290) granting a pension to Frances L. Ackley. As the report and statement have been published in the RECORD, I ask that only the statement be now read.

The SPEAKER. In the absence of objection, that course will be pursued.

The statement of the House conferees as published in the House proceedings of June 5 was read.

The report was agreed to.

CHANGE OF REFERENCE.

By unanimous consent, the bill (S. 3292) granting an increase of pension to Henry Loor Reger (heretofore referred to the Committee on Invalid Pensions) was referred to the Committee on Pensions.

PROTECTION OF THE PRESIDENT.

Mr. RAY of New York. I move that the House resolve itself into the Committee of the Whole for the further consideration of the bill (S. 3653) for the protection of the President of the United States, and for other purposes.

The motion was agreed to.

The House accordingly resolved itself into Committee of the Whole House on the state of the Union (Mr. GROSVENOR in the chair) and resumed the consideration of Senate bill 3653.

Mr. PATTERSON of Tennessee. I offer the amendment which I send to the desk.

The Clerk read as follows:

After the word "Presidency" in line 6, page 4, insert "or any judge of the Supreme Court of the United States."

Mr. PATTERSON of Tennessee. Mr. Chairman, I have heretofore expressed my disapproval of certain features of this bill. I believe that the words used in the first provision of the bill, "knowingly, unlawfully, and purposely," are not apt or properly qualifying words to describe a capital offense, and that the descriptive words of the common law should have been used by the committee in this bill. I believe, further, that this bill is a distinct invasion of the reserved powers and jurisdiction of the States of the American Union and that at least one State has amply demonstrated that State law and State judges and States juries can swiftly and condignly punish the assassination of a President of the United States.

But I know, Mr. Chairman, that my views on this question are not in accord with the views of the majority: and while I adhere to my opinion, yet I am willing to think that I may be wrong, and that this bill is drawn upon correct lines; and if the bill is drawn upon correct lines, it appears to me that the amendment I have offered is not only a proper one for the sake of uniformity in legislation, but one that ought, in common justice, to be adopted by this committee.

Now, Mr. Chairman, I take it that the lives of the members of the Supreme Court of the United States are at least equally valuable and sacred as the lives of Cabinet ministers and foreign ambassadors accredited to this Government. Indeed, I should imagine, Mr. Chairman, that the killing of a judge of the Supreme Court on account of an opinion delivered in a litigated case or for any official act was in a great degree more atrocious than the killing of a Cabinet officer, for it is a deadly blow, aimed at the very foundations of government itself.

Again, the Cabinet officer is an appointed officer, holding his office during the will of the Executive, whereas a member of the Supreme Court is a constitutional officer, representing in his great office the judicial arm of government. Again, so far as a Cabinet officer is concerned, his duties and his powers are insignificant as compared to the great responsibilities of a judge of the Supreme Court and the vast sweep of powers of the Supreme Court of the United States. If it shall be said, in answer to the amendment which I have offered, that the scope and purpose of this bill is to preserve the Presidential succession, then I desire to say that that answer is not an answer to the validity and the justice of this amendment, but I deny that that is the only purpose and scope of the bill. In section 3, as I now recall it, there is a provision which makes it a death penalty to kill an ambassador or a minister

resident here and accredited by a foreign government to the Government of the United States, and I repeat it that the life of a Supreme Court judge, representing the majesty of the law, is of so great importance to the Government of the United States that we should not neglect to put him on the same plane and give him the same protection we accord Cabinet officers, ministers, and ambassadors.

Mr. ADAMSON. Mr. Chairman, I suppose that there is no member of this House who from friendly relations with President McKinley during the last three years of his life entertained kindlier feelings toward him personally nor lost more for himself and his constituents by the tragic death of the late President than did I. He was personally kind and gentle to me as to all others, and many times I had occasion to rejoice at his goodness of heart and personal kindness to me as well as fairness to my constituents. He was a man of good impulses, and made the best President his party leaders and party exigencies would allow him to make. I would yield to no man in disposition to cherish kindly sentiments for his memory or to cast flowers upon his grave, but, Mr. Chairman, if it is proposed to erect a legislative monument to his memory, I would prefer to have that enactment a wise and statesmanlike one that would reflect credit upon him as well as the Congress which enacted it.

I do not consider that it would be a fitting monument to him nor to any other man to legislate in a direction either of destroying State power or impairing the dignity, power, and efficiency of the General Government by burdening it down with things which are totally unnecessary to impose upon it, and which were foreign to the purposes of the great and wise statesmen who conceived and put into operation this great dual system of government in the land of the free and the home of the brave. [Applause.] The Federal Government may punish all crimes where it has exclusive jurisdiction. The States may punish all crimes in their territory, except such as are directly connected with the practical operations of the General Government, such as those which affect the revenues, the mails, etc. No matter which authority is exercising jurisdiction within its proper respective limits, it should legislate alike for all persons, preserving the principle of equality before the law. There is no "divinity that doth hedge about a king" in this great country. The office of President, as all other offices, confers great privilege and honor devoutly desired by a great many people, who are willing to take it, cum onere, enjoying its salary, its perquisites, and its honors with all its dangers and liabilities.

A man by assuming office does not lose his personality and equality with all the other citizens of the United States, and I shall never vote for a statute so violative of every principle and tradition of our history and people and subversive of the basic principles of our governmental system. [Applause.] As to the other features of the bill, Mr. Chairman, I might not oppose all of them, if properly framed and incorporated in our immigration laws. This bill appears to me more like the inconsiderate outcome of hysteria, which naturally results from abhorrent crimes, rather than the product of cool deliberation and the triumph of wise statesmanship. If there is a State in this Union which has been derelict in providing alike for the prompt and certain punishment of crimes against high and low, rich and poor, official and private, in degree and severity commensurate with the act committed, the proper authority to supply the remedy is the legislature of that State, and to such legislature I refer this question. The disposition to centralize all powers of government and place upon the central authority the entire burden not only invades the rights of the States, but wrongfully assigns to the General Government more duties than it can well perform. The distribution of powers and duties among the local communities is a salutary division of labor and responsibility, which contributes to dispatch, efficiency, and justice. It is wrong to burden the General Government beyond its capacity; it is wrong to deprive the States of their authority; but the gravest result is the injury to the people, whose lives, safety, liberties, and property are jeopardized by impairing the efficiency of administration.

Mr. RAY of New York. Mr. Chairman, only a word in regard to this amendment. I desire to say that the committee thoroughly canvassed the question of going beyond the Executive there in line of succession to the Presidency in making provisions of this character, and the committee was unanimous that it would be unwise. If we go beyond the Executive, then there is no place to stop, and I hope the amendment will not be agreed to.

The CHAIRMAN. The question is on agreeing to the amendment proposed by the gentleman from Tennessee.

The question was taken, and the amendment was rejected.

Mr. PARKER. Mr. Chairman, I offer the following amendment, which I will ask to have read:

The Clerk read as follows:

On page 4, lines 6, 7, and 8, strike out "while he is engaged in the performance of his official duties, or because of his official character or because of any of his official acts or omissions."

Mr. PARKER. I will ask the Clerk to read the section as it would be if so amended.

The Clerk read as follows:

So that the section will read: "That any person who unlawfully, purposely, and knowingly kills the Vice-President of the United States or any officer of the United States entitled by law to succeed to the Presidency shall suffer death."

Mr. PARKER. Mr. Chairman, the committee will bear me out that I am not one of those who wish to repeat what has been decided by the committee, nor to reargue what has already been decided, but it strikes me that the Vice-President and those who are standing in succession to the Presidency, the Vice-President especially, are standing in a very different position from that occupied by the President. We fairly presume that the President is always engaged in his official duties.

The Vice-President, on the other hand, has no official duty except to preside over the Senate. Except when he is sitting in that chair—or if you hold the session of the Senate to be the term of his engagement, except during the session of Congress—he has no official duties whatsoever. During the recess he is not protected by that law. Nor are his official actions of such a nature as could be objected to. His sole official action in the Senate is to rule upon what comes up there, and that ruling is subject to instant reversal by the Senate itself. The object of this section is not, as I submit to the chairman of the Judiciary Committee, to protect his ability to rule on motions in the Senate. The object is shown in the words of the section to be to protect the succession to the Presidency. It is directed to those entitled by law to that succession.

Now, the Vice-President may have large public influence, and we have had Vice-Presidents who had such public influence. Imagine a case, during a recess of Congress, in which a disappointed office seeker, who complains of the Vice-President for using or not using his influence, kills him unlawfully, willfully, and maliciously. This section would then do nothing for the punishment of the offense or the protection of the Government. Many other cases may be suggested. The nation's interest in the Vice-Presidency is not in the fact that the Vice-President is President of the Senate. It is because he is the spare pilot standing ready to take the place of the pilot at the wheel of the ship of state and because the nation for its own protection has the right to protect his life. I urge upon this committee that it is constitutional to protect the Government, the nation, the Constitution from change of the succession to the office of its Chief Executive by such willful, knowing, and unlawful assassination, from whatever unlawful motive. This I believe to be the object of this section, and it is with a view of effectuating the object of the committee upon which I have the honor to have a place that, with all deference, I offer this amendment, one that stands, I believe, on stronger ground even than that offered in the case of the President.

Mr. RAY of New York. Mr. Chairman, in opposing this all I need to say is that it is the same proposition that we fought over yesterday, only in this instance the Attorney-General of the United States substantially concedes that these limitations are necessary. In a bill which we had prepared in that Department and which we had before the committee, these limitations in effect are included, and no one, so far as I know, except the gentleman from New Jersey, has ever contended that you could protect the Vice-President under all conditions and circumstances. Now, we have had a test vote on this and there was a decided majority. I do not think I ought to take time in rediscussing the question and in thrashing over old straw. I ask for a vote.

The CHAIRMAN. The question is on the motion of the gentleman from New Jersey [Mr. PARKER], to amend section 2.

The question being taken, the Chairman announced that the noes appeared to have it.

Mr. PARKER. I should like a division.

The committee divided, and there were—ayes 15.

The CHAIRMAN. Does the gentleman desire a count of the noes?

Mr. PARKER. I do not.

Accordingly the amendment was rejected.

Mr. SMITH of Kentucky. Mr. Chairman, I offer the amendment which I send to the Clerk's desk.

The amendment was read, as follows:

Strike out of section 2 all thereof after the "who" in the first line and insert, "willfully and with malice aforethought kills the Vice-President of the United States while he is engaged in the performance of his official duties or because of his official character or because of any of his official acts or omissions shall suffer death."

Mr. SMITH of Kentucky. Mr. Chairman, this amendment is of the same character as the one that I offered to section 1, with the addition that it strikes out all the Cabinet officers. If it were adopted, this section would apply solely to the Vice-President, leaving out Cabinet officers. Now, I want to say to the members of the committee that we ought to be entirely deliberate and cool about this matter. I want the members of this committee

to remember that when a man is appointed to a Cabinet position he does not lose the weaknesses that flesh is heir to. He is as likely to do wrong then as he was before he was appointed to that position; and if down in your State he should offer some insult to one of your citizens, and that citizen in the heat of passion should slay him, under this bill he would be liable to the death penalty.

I do not believe we ought to provide as severe a punishment as that would be under circumstances of that kind. Let us do what is right. Let us legislate like reasonable and intelligent gentlemen. Let us take into consideration the passions to which men are subject. While we throw around the President and these high officials that degree of protection that, it seems to me, will under all circumstances fully protect them against violence at the hands of bad people, we ought to have some consideration for our fellow-men who are so unfortunate as not to be able to restrain themselves when smarting under an insult given. All men are not forbearing, and there are many who, when excited, act hastily and without thought.

Mr. RAY of New York. Mr. Chairman, I want the committee to understand that the gentleman proposes to strike out all of section 2 that would afford protection to the Cabinet officers of the United States. By law they are the persons in line of succession to the high office of the Presidency in case the President and Vice-President both pass away. I submit that we ought to retain that protection for the Executive and for those in line of succession. I hope the amendment will be voted down without taking further time,

Mr. CLARK. Mr. Chairman, we can not hear one word that is being said. Nobody knows whether the gentleman from New York is for the amendment or against it.

The CHAIRMAN. The gentleman is opposed to the amendment.

Mr. RAY of New York. I oppose the amendment, I will say to the gentleman, because I think that the purpose of our legislation is and ought to be to protect the President, the Vice-President, and those officers of the Government now designated by law to fill that high office in case a vacancy occurs.

Mr. LITTLEFIELD. This amendment defeats that purpose.

Mr. RAY of New York. And this amendment defeats that purpose.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Kentucky.

The question was taken, and the amendment was rejected.

Mr. DE ARMOND. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amend by striking out the words "or any officer of the United States entitled by law to succeed to the Presidency."

Mr. DE ARMOND. Mr. Chairman, that amendment, if adopted, would confine this legislation to the President and Vice-President.

The CHAIRMAN. The Chair will remind the gentleman from Missouri that the House has twice voted against sustaining an amendment of that kind to the bill.

Mr. DE ARMOND. I think not in reference to this motion.

Mr. McCULLOCH. The amendment of the gentleman from Kentucky was "maliciously, etc."

The CHAIRMAN. The Chair will not make the point of order now.

Mr. DE ARMOND. I would like to understand about that. I think there has been no vote upon that proposition.

The CHAIRMAN. The identical proposition has been twice voted upon by the House on this bill in the same language.

Mr. DE ARMOND. A proposition of this kind?

The CHAIRMAN. The Chair thinks to the first and second sections.

Mr. McCULLOCH. Not about this.

The CHAIRMAN. The gentleman from Tennessee and the gentleman from New Jersey offered an amendment to strike this language out of the second section.

Mr. LITTLEFIELD. Can not we have order? We can not hear.

The CHAIRMAN. The gentleman from New Jersey offered an amendment to strike from the second section of the bill "while engaged in the performance of his official duties or because of his official character or because of any of his official acts or omissions."

Mr. DE ARMOND. That is not what I offer, Mr. Chairman.

The CHAIRMAN. The Chair stands corrected. The amendment does differ from the others.

Mr. DE ARMOND. I thought it had not been voted on.

The amendment if adopted would leave the act to apply wholly to the President and Vice-President, where I believe it ought to be left. Now, I do not desire to take the time of the committee upon it, because everybody has presumably made up his mind on the subject, and the matter is easily presented to the mind of anyone. It will be noticed that an offense which would be nothing more than manslaughter, the punishment for which under the law of no State in the Union, under no law of the Federal Government, would be death—for such an offense the punishment prescribed here is death.

The succession of a Cabinet officer to the Presidency must be remote, highly remote. There has never been a succession in the history of the country beyond the Vice-President. The second person who can succeed to the Presidency, in the case of the death or the incapacity of both the President and Vice-President, has never yet been called to the Presidency. With these facts of our history before us, with the other fact that we are preparing to punish in a way that the crime would not be punished under any law of the United States or any law of any State, the act ought to stop, in my judgment, with the President and the Vice-President. The existing laws provide amply now for punishing the murder of a Cabinet officer or any other assault upon him in protecting all the individuals of the country. If the offense were to take place where the jurisdiction of the United States is exclusive, there are ample Federal laws for the protection of the officer as an individual, and for the punishment of the offender. If the offense be committed in a State, the State laws are ample.

I think it ought not to be that. if a Cabinet officer, the seventh or eighth from the Presidency, if you please, were to be the victim of assault in a State, or if he were to suffer death in a State, when that offense would amount under the State law or national law as they now are to nothing more than manslaughter, we make it murder. We ought not by this law to provide that the Federal court shall have jurisdiction in a State of an offender guilty of nothing but manslaughter, grave and serious as that offense may be, but not so serious as murder, and that he shall by Federal law be punished as for murder. I have stated the sole object and purpose of the amendment, and with these remarks I submit it to the committee.

Mr. RAY of New York. Mr. Chairman, just one word. The amendment proposed by my colleague on the committee is identical with that offered by the gentleman from Kentucky [Mr. SMITH], with the exception that the amendment of the gentleman from Kentucky included the striking out of the words "the Vice-President."

Mr. SMITH of Kentucky. No; mine included the striking out of the words "unlawfully, purposely, and knowingly," and inserting "willfully and with malice aforethought."

Mr. RAY of New York. Very good. I want to say that our purpose is, and we think we have the right, to protect the President and Vice-President and those officers in line of succession to the Presidency under the law as it exists, and we ought to do that; and I think there is no question but that we have the constitutional right to do it. No one questions that except the gentleman from Wisconsin [Mr. JENKINS]. I trust the committee will insist on voting down the amendment and retaining the protection for all these officers who are in line of succession to the office of Chief Executive of the nation.

Mr. BELLAMY. Mr. Chairman, I move to strike out the last word of the amendment.

The CHAIRMAN. The Chair thinks the gentleman's amendment is not in order.

Mr. SMITH of Kentucky. I ask unanimous consent, Mr. Chairman, that the gentleman be allowed five minutes.

The CHAIRMAN. Without objection, the request of the gentleman from Kentucky will be granted.

There was no objection.

Mr. BELLAMY. Mr. Chairman, I am much interested in this discussion, and I think the amendment offered by the gentleman from Kentucky [Mr. SMITH] ought to have passed, but not having passed, I think the amendment offered by the gentleman from Missouri [Mr. DE ARMOND] ought then to be adopted.

The same reason does not apply to extending protection to the members of the Cabinet that do to the protection of the President. In fact, I can conceive of instances where in the social relations of life a member of the Cabinet may be visiting and in a sudden broil or heat of passion may get into some difficulty and he may be slain because of some discussion about his duties, although he may be the aggressor, and the slayer, while technically guilty of manslaughter, would be actually punishable by the death penalty under this provision. This is not right, and not in accord with the true spirit of the American Republic, composed of States whose laws and institutions are based on common-law principles.

I do not think it is the intent or the desire of the country at large to throw such a protection around Cabinet officers, and the amendment of the gentleman from Kentucky ought to have prevailed, because the principle of malice, "with malice aforethought," as expressed in the law, ought to enter into the crime, so far as it relates to the members of the Cabinet, because they are, as I say, brought into daily contact with various people that the President and the Vice-President will not be.

I hope this amendment will prevail. The country at large is not demanding more effective protection of the individual with

reference to the President and the Vice-President. They are demanding that laws shall be passed stamping out anarchy in this country. The law is already sufficient to punish any criminal who assaults the President of the United States, but we wish to make more effective the suppression of these individuals and the exclusion from this country of anarchists and nihilists who come here with an utter disregard for government, and exclude or deport them, if necessary, and that is, if I understand aright the trend of the public mind, the popular demand throughout the country, and not more effective laws for the prosecution of the individual. [Applause.]

The CHAIRMAN. The question is on the amendment offered by the gentleman from Missouri.

The question was taken; and on a division (demanded by Mr. DE ARMOND) there were—ayes 49, noes 61.

Mr. DE ARMOND. Let us have tellers, Mr. Chairman.

Tellers were ordered; and the Chairman appointed as tellers Mr. RAY of New York and Mr. DE ARMOND.

The House again divided; and the tellers reported—ayes 58, noes 67.

So the amendment was rejected.

Mr. OLMSTED. Mr. Chairman, I offer the following amendment.

The Clerk read as follows:

Amend by striking out the words "and knowingly" in line 4, page 4.

Mr. OLMSTED. Mr. Chairman, all penal laws are to be strictly construed. It does not require a strict construction of this bill as it now stands to hold that in order to convict any person of the offense here defined it must be first shown that he knew that he was killing the officer designated, the Vice-President of the United States, also that he knew that that officer was at the time engaged in the performance of an official act. The committee in its report say, "There is no question as to the power of Congress to define and punish the offense of unjustifiably assaulting or killing the President while engaged in the performance of his official duties."

If that be so, what is the necessity of inserting the word "knowingly?" The same principle would apply to section 2, referring to the President. And over on page 23 of its printed report the committee apparently so construes it that in order to commit the offense punishable by this act the offender must know that he is killing the officer named in the bill, and he must know that at the time of the killing he was engaged in performing an official act.

If that is not to be its effect, then the word "knowingly" can have no purpose or necessity in the bill. I think the same words should have been stricken out in the preceding section in reference to the President. I shall ask at the proper time unanimous consent to refer back to the first section and strike it out there, if this amendment prevails. I do not believe, many leading lawyers in this House do not believe, the Senate does not believe, the people of the United States do not believe, and the Supreme Court will never decide that in order to make it constitutionally an offense punishable by death it is necessary to prove that the person who kills the President of the United States knew at the time he was President, and not only that, but knew that he was at the time engaged in the performance of an official act.

Mr. RAY of New York. Mr. Chairman, we have thrashed that over once in discussing the preceding section. These words, as I stated, were taken from the bill drawn in the office of the Attorney-General. They have no such meaning as the gentleman from Pennsylvania would impute to them. They mean that the criminal must "unlawfully and purposely" kill, and that he must know that he is killing. To say that he must know the official character of the person assailed or must know that the person killed is engaged in the performance of official duties is a strained construction, not a legitimate one. I hope that the opinion of the law officer of the Government as to the propriety of the words will prevail. The committee was unanimous in agreeing that the construction stated is the proper construction of these words.

Mr. OLMSTED. May I ask whether the use of the word "knowingly" is necessary at all?

Mr. RAY of New York. Oh, certainly, if we would make the bill efficient and certain.

Mr. OLMSTED. If we say that the person must "unlawfully and purposely kill," is not that language sufficient?

Mr. RAY of New York. No. In the criminal law, as we found after thorough investigation, the two words have a somewhat different meaning. Putting them together they have a broader meaning than standing alone. When the bill suggested at the Department of Justice came to me, my first impression was that the language was objectionable as tautologous; but on looking up the meaning of the two words in the law, I found that in order to cover the case properly both ought to be used, and we therefore retained them, and to be consistent we ought to retain them.

Mr. OLMSTED. Does the gentleman understand that the word "knowingly" implies that the assailant must know that the person assailed is the President of the United States.

Mr. RAY of New York. I do not; that is not the meaning.

Mr. OLMSTED. What must he know?

Mr. RAY of New York. He must know that he is killing some one, or doing an act that may result in the death of some human being.

Mr. OLMSTED. Czolgosz, when he shot President McKinley, did not know that he was killing him, for his victim did not die until some time afterwards.

Mr. RAY of New York. He did not know that he had actually killed him; but that is not the idea. He knew that he was trying to kill somebody; he knew that he was striking a blow that might be fatal; he knew what he was doing, and intended death. If the assailant or the person striking the blow is a lunatic or an idiot, every lawyer knows that in the eye of the law the act is not knowingly done. If the assailant be a lunatic or an idiot, this word would exclude him. The word is necessary, so as to not punish a man improperly.

Mr. PATTERSON of Tennessee. If the word "knowingly" be used, will it not be necessary, in order to render the assailant guilty, that he shall know he is killing the President, or some person in the line of Presidential succession?

Mr. RAY of New York. It does not make any difference whether he knows his victim is engaged in the performance of official duty or not. It does not make any difference whether he knows that he is assailing a particular officer or not. He takes the chances. If he kills a man purposely, and that man is the President engaged in his duties, he is guilty.

Mr. PATTERSON of Tennessee. I believe that this House has voted upon these propositions believing that the word "knowingly" refers to the mental status of the assailant; that this is an anti-anarchist bill, and that when a person kills the President or a Cabinet officer in the line of succession, knowing that the person assailed is such officer, then he is guilty of a capital offense. Now, the gentleman from New York, as I understand, construes the word "knowingly" to refer only to the act, so that a man would be guilty under this provision whether he knew or not that the person he killed was the President or the Vice-President or a Cabinet officer.

Mr. OLMSTED. The report, on page 23, states that in order that this offense of "knowingly" killing the President may be committed the assailant must have knowledge that the person assailed is an officer engaged in the discharge of his duty, "for he knowingly kills an officer charged with the execution of the law while in the discharge of that duty."

That is the language of the report, and it is perfectly plain that the word "knowingly," as used in this bill, bears that construction.

Mr. RAY of New York. Used in the connection intended, the words would have the construction which I give them.

Mr. CLARK. I want to ask the gentleman from Pennsylvania a question. He has just read some language from the report and says it is "perfectly plain." "Perfectly plain" as meaning what? Does it mean that the assailant must simply know that he is killing somebody, or does it mean that he must know the man he is killing is the President?

Mr. OLMSTED. As I understand, he must know that the man he is killing is President and must know also that he is at the time engaged in the performance of some official act.

Mr. CLARK. Then he will know a good deal more than some people in this House would know.

Mr. RAY of New York. When the gentleman from Pennsylvania uses the words "official act" he does not draw the distinction that has been drawn by the Supreme Court of the United States. A man is engaged in the performance of an official act, like the members of Congress on duty to-day. Now, to-day we are each engaged at this time in the performance of an official act. When this House adjourns and we go down to our dinners to-night we are engaged in the performance of our official duties, as this bill provides, but not in the performance of an official act. I call for a vote.

Mr. BARTLETT. Mr. Chairman, I ask that the amendment be again read. Many of us did not hear it.

The CHAIRMAN. The motion is to strike out the word "knowingly" in the fourth line of the fourth page. The question is on the amendment offered by the gentleman from Pennsylvania.

The question was taken, and the amendment rejected.

Mr. CRUMPACKER. Mr. Chairman, I have an amendment, which I will submit and ask to have read.

The Clerk read as follows:

Insert after section 2 the following as an independent section:
"That any person who unlawfully, purposely, and knowingly kills the President-elect or the Vice-President-elect of the United States shall suffer death."

Mr. RAY of New York. Mr. Chairman, is that in order?

The CHAIRMAN. It depends upon the question whether there are any further amendments to section 2 to be offered. If not, then the amendment is in order.

Mr. RAY of New York. Very good.

The CHAIRMAN. The Chair hears no objection, and the amendment offered by the gentleman from Indiana will be considered.

Mr. LANHAM. Mr. Chairman, have we left section 2?

The CHAIRMAN. We have completed section 2.

Mr. LANHAM. I wish to make a motion in regard to that section.

The CHAIRMAN. Very well.

Mr. LANHAM. I move to strike out all of section 2, and I just wish to say one word. I do not now remember to have heard of the Vice-President of the United States being assaulted or of any attempt made to kill him because of the possibility that he might become President. Ordinarily, when a citizen reaches that high station, he is regarded, I believe, as being laid upon the political shelf, and I never have heard of any Cabinet officer being assaulted because of the remote contingency that he might at some time become President of the United States.

Mr. WARNOCK. Mr. Chairman, if the gentleman will permit, I would like to inquire if he has forgotten the attempt that was made upon Vice-President Johnson at the time that Lincoln was shot, and upon Mr. Seward as well?

Mr. LANHAM. That had escaped my recollection.

Mr. BARTLETT. Mr. Chairman, but at that time the Cabinet officers could not succeed.

Mr. LANHAM. The situation was very different then from what it is now in a time of profound peace.

Mr. BARTLETT. Cabinet officers at that time could not succeed to the Presidency.

Mr. WILLIAMS of Mississippi. But the Vice-President could.

Mr. LANHAM. I move to strike out the whole section.

The question was taken, and the Chairman announced that the motion was lost.

A division was demanded by Mr. LANHAM.

The House divided, and 20 members voted in the affirmative.

Mr. LANHAM. Mr. Chairman, I do not demand a further count.

So the motion was lost.

The CHAIRMAN. The gentleman from Indiana [Mr. CRUMPACKER] offers an amendment, which the Clerk will again report.

The Clerk read as follows:

Insert after section 2 the following as an independent section:

"That any person who unlawfully, purposely, and knowingly kills the President-elect or the Vice-President-elect of the United States shall suffer death."

Mr. CRUMPACKER. Mr. Chairman, it seems to be the purpose of Congress to assert the Federal power in the protection of the President of the United States and those in the lawful line of succession. Heretofore the Federal Government has depended upon the incidental protection that came from the enforcement of State laws. There is abundant authority in the Constitution for Congress to protect its own officers. It has been settled beyond question that the Federal Government is not compelled to depend upon any other sovereignty for its own protection; it has inherent and express power enough to take care of itself and preserve its own political integrity.

Now, when one is elected President of the United States by the electors that are regularly chosen he is given a constitutional status, and more embarrassment, I submit, may come to the people of the country in the overturning of popular government from the assassination of the President and Vice-President elect than can come even from the assassination of the President and Vice-President after they have been inaugurated, because Congress has provided abundantly for the succession in the event of the death or resignation or removal of the President, but I submit there is no adequate provision for succession of one who has been elected President of the United States and has not yet been inaugurated.

This Government is a government of the people. It is based upon popular elections, and it goes to great pains in surrounding the institution of elections with safeguards to protect their purity and integrity, to prevent and punish fraud and imposition, and it is utterly preposterous, in my judgment, to say that the Government that may exercise all of this authority, these incidental powers, in preserving a great fundamental principle upon which the Republic rests, and yet has not the power to go further and protect to the people of the country the result of the election, after the electors have assembled and elected the Chief Magistrate of the country. If he shall be assassinated, murdered, say, in the State of New York, it is not only a crime against the State of New York, but it is a crime against the State of Indiana, against the State of Ohio, the State of California, the State of Texas, because by that crime the people in all the States in this country have been deprived of the services of one whom they selected to be the Chief Magistrate.

The result of popular elections would be overthrown. It is a blow at the very vital principle of republican government, and I submit again that the embarrassments that must come from a crime of that kind under those circumstances, may be infinitely worse than any crime that could be inflicted upon the Federal Government by the assassination of a President. What would be done if, after the electors had met and chosen a President of the United States and exhausted their power, the President-elect and Vice-President-elect should be assassinated? What constitutional resource would the people have? The term of the incumbent expires on the 4th of March under the Constitution, and, as I understand it, all of the Cabinet officials who are appointed and who are members of his official family, go out of official existence with him. An interregnum, if I may be allowed to use that term in connection with the politics of this country, might easily happen, and in view of the heat that may be engendered in Presidential elections, in view of the party feeling that may be worked up over the fierce contests that occur every four years, some disordered mind might be prompted to assassinate the successful candidate.

[Here the hammer fell.]

Mr. RAY of New York. Mr. Chairman, all I need to say in reply to the gentleman is that his proposed amendment is clearly unconstitutional, unauthorized by the Constitution beyond any peradventure. It is decided over and over again that the President, the Vice-President, and many other officers elected to represent the Government are mere private citizens until the 4th of March comes. In the case of the United States *v.* Cruikshank, and in numerous other cases, it is held that sovereignty for the protection of the rights of life and personal liberty of the citizens within the respective States rests alone with the States. I will not read any more, but that principle is iterated and reiterated, and Congress has not any power to enact such a law as this for the protection of a citizen of the United States, it makes no difference to what high office he has been elected, until his term of office begins.

Mr. WILLIAMS of Mississippi. May I ask the gentleman a question?

Mr. RAY of New York. Yes.

Mr. WILLIAMS of Mississippi. Is it not a part of the duty of the incumbent who is President, in the execution of the laws of the United States, to see to it that the President-elect is not obstructed in his inauguration and in taking his seat?

Mr. RAY of New York. Oh, it would be the duty of the President in executing the law to preserve order at the inauguration of his successor.

Mr. WILLIAMS of Mississippi. Very well; that is what I am getting at.

Mr. RAY of New York. But that would be to preserve the public peace in the District of Columbia, which is entirely within the jurisdiction of the United States. And another thing; the 4th of March has come, the time has come when the President comes into office, and he becomes President whether he takes the oath or not.

Mr. WILLIAMS of Mississippi. Now, I want to ask this question: Does not this bill rest entirely for its constitutional warrant upon the proposition that Congress is given power to execute the foregoing grants of power? In other words, do we not derive our right to pass the very bill that we are passing here from the right that is given to Congress to enforce and execute the provisions of the Constitution?

Mr. RAY of New York. Oh, incidentally, that is one of the grounds, certainly.

Mr. WILLIAMS of Mississippi. Is not that the only ground really, because we have the right to say that a governmental agent of the United States is obstructed by killing or otherwise in the discharge of his duties?

Mr. RAY of New York. That is the ground.

Mr. WILLIAMS of Mississippi. That grows out of the constitutional power to enforce the foregoing provisions which have conferred certain powers and duties on certain executive officers. Now, if it be true that it is the duty of the incumbent of the office of President to see to it that the incoming President is safely inaugurated without obstruction, then have we not the same constitutional warrant for the other?

Mr. RAY of New York. To provide for the punishment of the man who kills the President-elect?

Mr. WILLIAMS of Mississippi. Yes.

Mr. RAY of New York. Clearly not, Mr. Chairman, because the President-elect is a private citizen until the 4th day of March comes, until the hour of noon arrives, and Congress can not protect him until then. When that hour comes he becomes the President of the United States. Of course it may be the duty of the incumbent to protect me as a private citizen, but that does

not give the Congress power to enact special laws for my protection, and making my murder in a State as a private citizen such an offense as is contemplated in this bill.

Mr. HENRY C. SMITH. May I ask the gentleman a question?

Mr. RAY of New York. Yes.

Mr. HENRY C. SMITH. Why not add to the amendment of the gentleman from Indiana [Mr. CRUMPACKER] a suggestion such as you have in section 13, that the President-elect shall be presumed to be in the performance of his duty from the time he is elected? [Laughter.]

Mr. RAY of New York. Well, that is mere nonsense, and I will not take any time to answer it.

I ask for a vote.

The CHAIRMAN. The question is on the motion of the gentleman from Indiana [Mr. CRUMPACKER] to insert a new section, which the Clerk will report for the information of the committee.

The amendment was again read.

Mr. THOMAS of Iowa. Mr. Chairman, I move to amend by striking out the last word.

The CHAIRMAN. That is not in order. The amendment pending is already an amendment to an amendment.

Mr. THOMAS of Iowa. This is a new section, as I understand it.

The CHAIRMAN. The amendment proposed by the gentleman from Indiana is an amendment to a pending amendment. The question is on the motion to amend.

The question was taken, and the Chairman announced that the noes appeared to have it.

Mr. CRUMPACKER. Let us have a division.

The committee divided, and there were 22 in the affirmative.

Mr. CRUMPACKER. I withdraw the request for a division.

The CHAIRMAN. The noes have it, and the amendment to the amendment is rejected.

Mr. PATTERSON of Tennessee. Before leaving section 2, I want to offer this as a proviso.

The CHAIRMAN. We have left that section. The Chair asked if there were any other amendments to section 2, and there were none offered.

Mr. PATTERSON of Tennessee. Then I offer it as a new section.

The CHAIRMAN. The gentleman from Tennessee proposes an amendment which the Clerk will report.

The Clerk read as follows:

Add after second section:

"*Provided, however*, That no person shall suffer the death penalty for this act unless he knew the official character of the officer killed."

Mr. RAY of New York. I make the point of order against that. I confess, Mr. Chairman, that I have not heard it distinctly. May I ask to have it again reported?

The amendment was again reported.

Mr. RAY of New York. I make the point that that is simply a proviso to section 2, and that it is not a new section.

The CHAIRMAN. The Chair can not decide that it is a proviso.

Mr. PATTERSON of Tennessee. I would like to have order just one moment, because this is a most important measure. I offer this amendment on account of the construction placed upon the word "knowingly" by the distinguished chairman of the Judiciary Committee. He says that the word "knowingly" in this bill referes to the act and not to the mental status of the assailant of the President. Now, I take it, Mr. Chairman, that we are legislating here not for the hour, not for the day, but for all time; and I want to say I believe it is a monstrous and bloody proposition to say that any man should suffer death under circumstances of this character unless he knew the official character of the person whom he killed. Now, what is the scope and purpose of this bill? This bill is aimed primarily at anarchy and anarchists, who are opposed to all officials and who have a hatred against organized government. Now, you have a proposition in this bill making a penalty of death to kill a man knowingly, unlawfully, and purposely, when this man does not know that he is killing an officer.

Mr. TAWNEY. Will the gentleman allow me to ask him a question?

Mr. PATTERSON of Tennessee. Certainly.

Mr. TAWNEY. Under this amendment all a man would have to do in order to be acquitted would be to plead that he did not know that he had killed an officer.

Mr. PATTERSON of Tennessee. I refer my friend to the common law, and also tell him that the State would be able to punish, and would punish such a man. If he killed a Cabinet officer or any other officer, then he would be amenable to the jurisdiction of the State court, and that is a complete answer to that question. He would be punished for his crime.

Now, I want the chairman of the Judiciary Committee and the committee itself to put itself on record on this amendment, by saying that it proposes to visit the extreme penalty upon a man who kills another without malice, without premeditation, and without deliberation, and not knowing the person killed to be an officer such as sought to be protected under the terms of this bill.

This kind of legislation is not demanded, and is unwise and revolutionary. Any citizen, otherwise law abiding, and in no sense an anarchist, might kill the officers named, not knowing they were officers, under circumstances that might greatly mitigate the offense, and still suffer the penalty of death.

Mr. RAY of New York. I call for a vote on the amendment, Mr. Chairman.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Tennessee.

The question was taken, and the chairman announced that the noes appeared to have it.

Mr. PATTERSON of Tennessee. Division.

The committee divided, and there were 10 in the affirmative.

Mr. PATTERSON of Tennessee. No further count demanded.

The CHAIRMAN. The noes have it, and the amendment is rejected.

The Clerk read as follows:

SEC. 3. That any person who unlawfully, purposely, and knowingly kills any ambassador or minister of a foreign state or country accredited to the United States, and being therein, and while engaged in the performance of his official duties, or because of his official character, or because of any of his official acts or omissions, shall suffer death.

Mr. GILBERT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amend section 3, on page 4, by inserting, after the word "therein," in line 12, the words "or being within any territory or place subject to the jurisdiction thereof."

Mr. GILBERT. Now, Mr. Chairman, I have heard some half a dozen times during the discussion of this bill that Congress derived its authority to make this legislation under the law of nations. I do not understand that Congress derives any authority at all by international law. Whatever authority Congress has upon this subject is derived under the Constitution, either express or implied. In my judgment, Congress has no right to legislate upon this subject at all. But waiving that point, if Congress has any right to legislate upon this subject, if we are under any duty or obligation to legislate for the protection of foreign ministers, then certainly the legislation ought to be as extensive as the territory.

A new-fangled doctrine has grown up of late that the United States do not include the Territories, and the way this bill reads now, a foreign minister being killed within the territory of the United States, the person inflicting the wound or causing the death would be punished with death, but if the foreign minister should be within the District of Columbia or should be within the Territories of the United States the language of this bill does not include and does not protect him. Therefore, I say that if we are going to legislate at all let the legislation be inclusive, not only of the United States, but over every other territory over which the jurisdiction of the United States extends.

Mr. RAY of New York. Mr. Chairman, I hope this amendment to that section will be voted down. There is no occasion for it.

The question was taken; and the amendment was rejected.

Mr. DE ARMOND. Mr. Chairman, I move to strike out the section.

The CHAIRMAN. The gentleman from Missouri moves to strike out the section.

Mr. DE ARMOND. Mr. Chairman, I only wish to speak on this amendment very briefly. This section is one that provides for punishing with the death penalty persons who in the States, as well as where the Federal Government has exclusive jurisdiction, may kill a foreign ambassador. I think it is entirely unnecessary. I think, instead of being a wise law, one that would be wholesome in effect, it would be a bad law. I do not think it tends to the protection of the foreign minister. It is making a distinction between our own people and the representatives of foreign governments, whether the foreign government be good or bad, or whether the representative be good or bad; making a distinction that ought not to exist.

Under the present state of the law, under the laws as they now are, there is ample provision made by the Federal law and by the State laws. The Federal law within the territory over which the United States has exclusive jurisdiction, and the State laws in the several States provide for the trial and punishment of every person who may commit any offense upon another, whether representative of a foreign Government or citizen of the United States.

The reason for legislating with reference to the President and the Vice-President, and the members of the Cabinet who may succeed to the Presidency, has no application whatever to such a provision as that which I have moved to strike out. If one were

thoroughly satisfied with the proposed legislation as to the President and the Vice-President and others in succession, that it is absolutely necessary and wise without adulteration, yet we can not reason from it that there is any occasion for this provision. It relates to an entirely different subject. It has no relation to the perpetuity of the Government. We are seeking to protect our own Government in the person of its Chief Executive and those who may succeed to that high office, and this is put in as a compliment to foreign Governments, and is prejudicial, and theoretically and practically against our own people in leaving them out of that protection.

Mr. PARKER. Will the gentleman allow me?

Mr. DE ARMOND. I will yield to the gentleman.

Mr. PARKER. I was going to ask the gentleman whether it was not in the early part of our legislation, 1790, I think, that the United States was given exclusive jurisdiction over ambassadors?

Mr. DE ARMOND. That is another question entirely. It is not a question whether the United States should have exclusive jurisdiction when these ambassadors are interested on the one side or the other, when they are the victims of assault; that is not the question. But the question is whether the jurisdiction of the United States courts should be extended from those at its head to these ambassadors; whether jurisdiction of the United States should be extended, as to these particular representatives, into the States where it may not otherwise go; whether a man under aggravating circumstances who commits an offense upon one of these ambassadors, of no higher grade than the lowest degree of manslaughter, shall be punished with death. It is a provision that ought not to be in this bill. It is utterly useless legislation, against which every argument that can be urged with respect to the President and Vice-President must stand. These people do not stand in any such relation as our own high officers, and we have no like interest in them. When they are taken care of by the laws that are sacred to the American citizen, all has been done that ought to be done; all is done for them that need to be done for them, all that can be done for them, in justice and in fairness to our own people.

Mr. POWERS of Massachusetts. Mr. Chairman, I trust that this amendment will not be adopted, and for this reason; This bill seeks to protect the President of the United States and those in line of succession. It does not go beyond that with reference to American officers; at the same time, it undertakes to protect the official heads of other nations accredited to this country and residing herein. In other words, it seeks to protect the official head of the United States and the official heads of the other nations who are residing in this country and over which we have jurisdiction,

Mr. SMITH of Kentucky. If it would not disturb the gentleman, I would like to ask him a question.

Mr. POWERS of Massachusetts. I will yield to the gentleman.

Mr. SMITH of Kentucky. I would like to ask the gentleman this question: We base our right to legislate with reference to the Vice-President and the Cabinet officers upon the fact that they are Government officials; they are officers of the Government, and we limit our powers with reference to them to the time when they are engaged in the discharge of their duties and where the assault is made by reason of their official character or on account of some official act done or omitted to be done. In my judgment that is perfectly constitutional for Congress to legislate that way. But as to these foreign ambassadors, they are not citizens of the United States; they are not officers of the United States, and upon what ground can Congress assume jurisdiction to legislate with reference to them? That is what I want to know.

Mr. POWERS of Massachusetts. I will undertake to answer the gentleman from Kentucky by referring him to 120 United States Reports, page 480—the case of United States *v.* Jonah. I read only a portion of the head notes.

The United States being bound to protect a right secured by the law of nations to another nation or its people, Congress has the constitutional power to enact laws for that purpose.

Under the principle there stated, Congress undoubtedly has the right to pass laws for the protection of the lives of ambassadors who are sent here to represent foreign countries.

But more than that, Mr. Chairman; at the present time every civilized nation is trying to stamp out anarchy. The nations are working in concert for this end. During the last two years a sovereign of Europe—the King of Italy—and the President of the United States have both fallen at the hands of anarchists; and in each case the plot was hatched upon American soil, and was carried into effect by the assassin crossing the ocean for the purpose of doing so. It strikes me it would be most ungracious if when at this time we are trying to protect our Chief Executive we should refuse to extend like protection to representatives in our country of foreign nations.

More than that, Mr. Chairman, under our law as it stands now if an unpremeditated attack were made upon the ambassador from Germany in the District of Columbia or in a Territory of the United States, the maximum penalty for that assault, if it did not result in death, would be three years in a State prison and a fine not exceeding $1,000. I trust, Mr. Chairman, that this amendment will not prevail.

Mr. SPIGHT. Mr. Chairman, if I could vote for that feature of this bill which has for its object the suppression of anarchy and the exclusion of anarchists from our country as an independent proposition, I should be glad to do so. Since the birth of our Republic it has been our proud boast that this "the land of the free and the home of the brave" should be an asylum for the oppressed of all nations, but it was never intended that it should be a rendezvous for the vicious and criminal classes who not only know nothing of the genius of our institutions, but are animated by an intense hatred of every form of organized government. They contribute nothing to our national greatness and prosperity, but are a standing menace to the peace, good order, and well-being of society.

Any legislation, to the extreme limit of constitutional power, which looks to their exclusion and expulsion from our borders shall have my hearty approval and support, and I regret that such provisions in this bill are so coupled with other vicious and dangerous propositions that I feel constrained to vote against it in its entirety.

One of the cardinal doctrines of the political school in which I have been trained is that no part of the sovereignty of the States is to be surrendered to the General Government except as expressly authorized by the Constitution.

That the General Government confers no power upon the States, but that the States have conferred certain powers upon the General Government through the medium of the Constitution. This is the doctrine of "States' rights" which it is fashionable in certain quarters to ridicule so unfeelingly. The measure now under consideration had its origin in the deep-seated and widespread indignation which followed the cruel and dastardly assassination of President McKinley.

The fact that the President was murdered by a brute who never saw him before and who could not claim the cowardly justification of a personal grudge was enough of itself to inflame public passion; but when we consider that the victim of this assassin was a man so gentle and so lovable as William McKinley, it is not strange that the people from every portion of this country, without regard to political and partisan differences, were wrought up to a degree of indignation and a sense of outrage never witnessed before. This feeling was nowhere stronger than in the "solid South," as I know from a personal intercourse and contact with the people.

The prompt trial, conviction, and execution of the miserable assassin only partially appeased the public demand for vengeance. It was known that the enemies of organized government and the propagandists of dangerous political, economic, and social heresies were behind the cowardly murderer and nerved his arm to strike the deadly blow, and not only was the sacrifice of his wretched life demanded, but there was also a general desire for such legislation as would, as far as possible, prevent the recurrence of such a tragedy.

This desire, accentuated and intensified by a constantly accumulating momentum, has reached the Congress of the United States, and grave Senators and dignified Representatives have been "swept off their feet" by this strong popular current and have literally "lost their heads." There is great danger that in the mad desire for political advantage and in the wild rush for popular approval a more serious blow at the spirit and genius of our institutions may be delivered than any that was ever directed at any man, no matter how lofty his station.

To follow the leadership of passion is always dangerous, but when the Congress of the United States, the greatest legislative body on earth, representing the people of the grandest, richest, and most powerful nation the sun ever shown upon, legislating not for an hour, a day, or a year, but for all time, shall yield to passion and shall forget the teachings of the fathers of the Republic and more than a hundred years of magnificent history, I can but be alarmed. I may be an "old fogy." I do not intend to be a modern "crank." I love my country. I love her institutions. I love her proud history. I love her people and all their interests, and I love them too much to sit idly by and see them sacrificed without raising my voice in earnest protest. I think it will be ineffectual, I think the bill will pass, and that my poor opposition will amount to nothing so far as results are concerned; but, be this as it may, my conscientious convictions lead me to oppose this bill, and knowing no better guide, next to the Word of God, than the dictates of an enlightened conscience, I am compelled under a stern sense of duty to vote against it.

I shall not stop to argue the legal and constitutional questions

involved. They have been ably presented by others, and my judgment is convinced. I believe that the pending bill is in conflict with the Constitution, and is violative of the fundamental principles of our Government, and if enacted into law will be subversive of our free institutions. One of the basic principles of our system of government is that all men are equal before the law. I know that we have been drifting away from this old landmark, but I will never by word or vote acknowledge that this is an obsolete doctrine.

By the terms of this bill there is created a favored class of Americans whose lives are made more precious in the sight of the law than all others, and includes, also, a number of foreigners temporarily residing here as the representatives of their governments and fixes a death penalty for killing any one of those protected officers under such circumstances as would be only manslaughter in any other case, and takes away the jurisdiction of the State courts and confers it upon the Federal courts.

While I would regard it as a dangerous encroachment upon the equality of rights and the sovereignty of the States, I might bring myself to vote for such a provision which should apply alone to the President, but I can not agree that because a man happens to be a Cabinet officer or the representative of some foreign government he is entitled to be placed upon a higher plane before the law than every other citizen of the country. This all "smacks" of royalty, and is in keeping with the policy of imperialism into which we are so rapidly drifting.

The life of the humblest citizen is just as precious to him and to his family as is the case with a Government official. The willful, malicious, and deliberate killing of one human being is just as much murder in the eyes of God and man as is the killing of any other human being, and this has been recognized by all statute law in this country from the foundation of our Government, but here we are about to create a sacred class "hedged about with a divinity" and made superior, by the law of the land, to millions of others just as good as themselves.

If I had no other objection to this bill I would vote against it because of what is sought to be done in the last section. It undertakes to overturn a fundamental and vital principle in criminal law which is hoary with age and comes down to us from both divine and human law, and is recognized in every land where the rights of man are regarded. By this section it is intended to take from a man charged with crime the presumption of innocence and cast upon him the burden of proving that he is not guilty. This is an innovation so dangerous that I am astonished that any man, especially any lawyer, can bring himself to support it.

As I said in the beginning, I would be glad to support every line in this bill which is intended to suppress anarchy and anarchists, but there are so many other pernicious features that my judgment and conscience condemn that I am compelled to vote against it.

There is no reason why the jurisdiction should be removed from the State to the Federal courts. We have had three Presidents to die at the hands of assassins. Booth, who killed Lincoln, was shot to death in making the arrest. Guiteau, the murderer of Garfield, was convicted, condemned, and executed after a disgustingly long trial in the District of Columbia. Czolgosz killed McKinley in the State of New York and was tried, convicted, and executed promptly under the laws of that State.

No murderer of a President has ever escaped. None ever will. There is no need for this legislation. Is any man foolish enough to suppose that the anactment of such a law prior to the killing of Lincoln would have saved him, or Garfield, or McKinley? In each case the assassin knew that death to himself would be the result, and no law, however rigid, would have prevented the crime.

Let us be careful that, swayed by the passion of the hour, we do not commit a grievous wrong against the established principles of our American policy and criminal jurisprudence when no good can result from it, and when such action is wholly unnecessary. [Loud applause.]

Mr. SMITH of Kentucky. Mr. Chairman, with reference to the motion of the gentleman from Missouri to strike out this section, I desire to say I have had more trouble in my own mind over the proposition involved in this section than I have had in regard to any other part of this bill. I can understand perfectly well how the Federal courts can be given jurisdiction to try a citizen of this country for striking down an official of this Government when he is engaged in his official duties or on account of some official act performed or the refusal to perform some official act or because of his official character. I can understand that perfectly well.

Mr. LITTLEFIELD. Did the gentleman take in the full force of the citation given by the gentleman from Massachusetts?

Mr. SMITH of Kentucky. I am very candid to say that I did not.

Mr. LITTLEFIELD. That citation was to this effect: The Supreme Court of the United States has held that we have the constitutional power to pass a statute prohibiting the counterfeiting of the bonds, securities, or notes of a foreign government, by reason of the international obligation and duty resting upon us by virtue of comity with respect to a foreign power. Now, then, if we can prohibit the counterfeiting of the notes and securities of foreign governments, is it possible that we can not protect such a government itself when it is here in the person of its representative? That is the naked proposition.

Mr. WILLIAMS of Mississippi. In other words, the sovereign himself is present by proxy.

Mr. LITTLEFIELD. Certainly.

Mr. LANHAM. We do protect it by the whole body of our laws.

Mr. LITTLEFIELD. This is a question of constitutional law.

Mr. LANHAM. The question of the power is one thing and that of the policy another. The Constitution says that we can declare war, grant letters of marque and reprisal, etc.; but still we must determine the question whether it is expedient to exercise the power.

Mr. LITTLEFIELD. Would the gentleman say that the government which can punish the counterfeiting of a foreign note because of international comity toward the foreign government can not protect the foreign government itself when represented here in the person of its ambassador?

Mr. LANHAM. I am not disputing the question of constitutionality; but I do disagree with the gentleman as to the alleged necessity for this measure.

Mr. CLARK. Mr. Chairman, I would like to ask the gentleman from Maine a question or two, if the gentleman from Kentucky will yield.

Mr. SMITH of Kentucky. I yield to the gentleman.

Mr. CLARK. The whole intent of this bill is to change manslaughter into a capital offense in certain cases, is it not?

Mr. LITTLEFIELD. Not necessarily that.

Mr. CLARK. I do not say the whole intent, but that is the principal one.

Mr. LITTLEFIELD. That may be one of the effects of the bill.

Mr. CLARK. I want to ask the gentleman as to the feasibility, not as to the constitutionality of this question, but whether, as a matter of fact, it is a feasible proposition or it is an expedient one to say here of 75 ambassadors and ministers in the city of Washington that if a man killed one of them unlawfully, under conditions that would be only manslaughter if he killed you or me, that it shall be made a capital offense simply because he happens to be the representative of a foreign government here.

Mr. LITTLEFIELD. I will say frankly that the committee based this section largely, so far as feasibility is concerned——

Mr. SMITH of Kentucky. Mr. Chairman, I do not want to have all this time taken out of my time.

Mr. RAY of New York. Oh, no; this is running by unanimous consent.

Mr. LITTLEFIELD. Upon the idea that if there was any killing of a foreign ambassador under the circumstances contemplated by the bill, it would undoubtedly be the result of the organized effort that exists already as directed against all governments, and the committee felt that if an ambassador was killed under those circumstances and by those people who were engaged in that propaganda there was no harm in making the provisions of this bill somewhat drastic.

Mr. CLARK. Well, the presumption is that a man who comes here as an ambassador of a great country is a gentleman, but even gentlemen sometimes go out——

The CHAIRMAN. The time of the gentleman from Kentucky has expired.

Mr. CLARK. Mr. Chairman, I ask unanimous consent that the time of the gentleman be extended for ten minutes, because this is not a trivial question that we are discussing now.

The CHAIRMAN. The gentleman from Missouri asks unanimous consent that the time of the gentleman from Kentucky be extended ten minutes. Is there objection?

There was no objection.

Mr. CLARK. What I started in to say was that as a rule of course ministers and ambassadors would be high-class men, but we have no assurance whatever that that is always the case. Now take the minor countries, these revolutionary countries. They may send us over here a minister who is hot-blooded, and suppose a man has a conversation with him and the minister pursues his hot-blooded method and either insults the man grossly or absolutely makes an assault upon him and the other retaliates by killing the minister. Under our laws as they now exist it would be manslaughter. Under this proposed law it would be a capital offense. Now, there are something like ten or fifteen millions of people in the United States who if slapped in the face by one of those ministers would kill the minister.

Mr. LANHAM. And the minister would be presumed to be acting in the discharge of his official duties under this bill.

Mr. CLARK. Most assuredly. The rule among Americans generally is that if one man assaults another the one assaulted is going to kill the other. That is the way people look at their rights in this country, and it seems to me it is crowding this to a great extent to take the foreign ministers into it in the way you have in this bill.

Mr. LITTLEFIELD. Let me call the attention of the gentleman to the fact that this section contains the same qualification with reference to the discharge of duties and official character and acts of omission that the section in relation to the President has if assault is made independent of his official character, which would be the circumstances suggested by the illustration of the gentleman. This statute would not apply. There is no presumption in relation to an ambassador, and I submit to the gentleman from Texas [Mr. LANHAM] that that is so, under section 13, because it applies expressly and alone to the President, Vice-President, and other officers entitled by law to succeed.

Mr. LANHAM. Let me correct the gentleman, that in all prosecutions under the provisions of the first seven sections of this act——

Mr. LITTLEFIELD. Yes, "until the contrary is proved, that the President of the United States or Vice-President of the United States or other officer of the United States entitled by law to succeed to the Presidency, as the case may be," etc. I think the gentleman will concede that I am right.

Mr. LANHAM. Yes, I stand corrected about that. I thought for the moment that it applied to all the seven sections of the bill.

Mr. CLARK. Now, I will give an example of the class of cases that I have been talking about.

Mr. SMITH of Kentucky. Mr. Chairman, I desire to yield the time that was allotted to me to the gentleman from Missouri. [Laughter.]

Mr. CLARK. No, no; do not do that. I want to give an example of what I was informed by a gentleman, whom I believe told the truth, happened in this city actually. When Mr. Blaine was Secretary of State, he deputed a young man in his office to go and wait on a certain minister here. The young man could not find him at the legation and hunted him up, and finally found him somewhere at a club. He told him what Mr. Blaine had sent him to do. The minister flared up and gave him a most tremendous "cussing." This young man that Blaine had sent there then gave the minister a good sound kicking, and when he went back from there to Mr. Blaine's office the young man found the minister there raising a great hullabaloo. Mr. Blaine reproved the young man publicly, but when he got him into his private room he congratulated him and said, "But thank God that it was not Lord Pauncefote that you have been kicking." [Laughter.]

Now, suppose he had killed the minister under those circumstances. It would have been an extreme hardship to hang him for it.

Mr. FOX. It was in the discharge of his official duty.

Mr. CLARK. The minister was in the discharge of his official duty when he did the "cussing," because it was an official matter on which the young man had gone to see him.

Mr. WILLIAMS of Mississippi. That may be; but is not the intendment of this bill plain and palpable, that when a man kills another because of a private grudge or because of a private quarrel, or while engaged in a private quarrel, that the offense does not come within the purview of this bill at all?

Mr. PATTERSON of Tennessee. It certainly does.

Mr. CLARK. That is the theory, but the application is not so certain. I am in favor of the principle of this bill, but I do not want to see anything put into it that will induce a large number of members to vote against it, and there is more opposition to this section about these foreign ambassadors and ministers than there is about all the rest of this bill put together. Now, Mr. Chairman, I ask that my friend from Kentucky [Mr. SMITH] have his own time. The gentleman from Maine [Mr. LITTLEFIELD] and myself have taken it up.

Mr. SMITH of Kentucky. Mr. Chairman, the gentleman has about covered all the objections that I had wished to state to this section. I myself believe that there is more antagonism to this section than there is to all the remainder of this bill; and while I have not had an opportunity carefully to examine the case that has been cited by the gentleman from Maine and the gentleman from Massachusetts, yet I think that a critical examination will develop some difference between that case and the cases that might arise under this provision of the law.

Now, as I have said, I do not believe that the Federal Government of the United States has any power under the comity existing among nations to pass such a provision as this third section here. As I say, I have not carefully examined the case determined by the Supreme Court, but upon principles of natural justice and fundamental law I doubt that Congress possesses this power, and I have had more trouble in reconciling myself to this proposition than I have to all the remainder of the bill. I believe that rather than to incumber a fairly good law with this provision, which is, at least in my opinion, of doubtful constitutionality, it would be better to eliminate it from the bill and let us have a bill about whose constitutionality there can be no kind of question.

This is all I care to say.

The CHAIRMAN. The question is on the amendment of the gentleman from Kentucky [Mr. SMITH] to strike out section 3.

The question being taken, on a division, demanded by Mr. SMITH of Kentucky, there were—ayes 42, noes 48.

Mr. DE ARMOND. Tellers, Mr. Chairman.

Tellers were ordered; and the Chairman appointed Mr. DE ARMOND and (at the request of Mr. RAY of New York) Mr. POWERS of Massachusetts.

The committee again divided; and there were—ayes 59, noes 72.

Accordingly the amendment was rejected.

Mr. CRUMPACKER. Mr. Chairman, I offer the amendment which I send to the Clerk's desk.

The Clerk read as follows:

Strike out of section 3 all after the word "therein" in line 12, all of line 13, and the words "of his official acts or omissions" in line 14; so the section will read:

"That any person who unlawfully, purposely, and knowingly kills any ambassador or minister of a foreign state or country accredited to the United States, and being therein, shall suffer death."

Mr. CRUMPACKER. Mr. Chairman, there is some reason for the introduction of these qualifying words in other sections of this bill, because there is some doubt in the minds of gentlemen in charge of the bill as to the constitutional power of the Federal Government to protect one, even though he were an officer, unless he were engaged in the discharge of his official duty at the time he is assaulted. That question does not arise in relation to ambassadors and foreign ministers. When this country invites diplomatic representatives of foreign countries it gives its solemn engagement that it will exercise the powers under its command for their due and proper protection. Their protection is based upon international law, it is based upon the provisions of treaties, and it is one of the most solemn obligations of a government duly to protect the accredited diplomatic representatives of other governments with which it has commercial relations.

Now, the bill as it is written limits the power of the Federal Government to protect foreign ambassadors when they are engaged in the discharge of their official duties or because of their official character. The country is familiar with recent occurrences in China, when all of the diplomatic representatives of Christian civilization were beleaguered and assailed by the organized society known as the Boxers, and their lives were in jeopardy. At great pains and after the expenditure of a great deal of money and after a great deal of anxiety the powers of Christendom rescued their ministers from the danger, and in negotiating terms of peace one of the conditions was that the Chinese Government should properly punish the offenders and make adequate and ample reparation in the way of money indemnity.

Suppose, now, to illustrate, that the diplomatic representative of the Chinese Empire were in the city of Chicago or Ann Arbor, Mich., as I understand he visited those places a short time ago; suppose he should be assailed by a mob something like the Boxers in China by way of retaliation and his life should be in jeopardy. In making reparation for the injury inflicted upon the sovereignty of China what could this Government do? Suppose the Emperor of China should demand that we punish the perpetrators and pay an indemnity. The Government would be compelled to confess that there was no law, absolutely no law, under which it could inflict punishment upon the men who have committed an offense of that grave and international magnitude. The history of the Mafia riots in New Orleans is familiar to the minds of all.

Citizens of the Kingdom of Italy were taken by angry mobs and put to death without trial by jury, and we know about the famous correspondence over that occurrence, that has become historical, in which Secretary Blaine was compelled to confess that there was no power in the Federal Government to perform the requirements of the Kingdom of Italy, ordinary requirements, the usual conditions imposed by the civilized powers of the earth. He said that the Federal Congress had never enacted a law authorizing the General Government, under the power it has under the Constitution, to protect alien subjects here, and therefore he said the Government was utterly unable to do what the Kingdom of Italy required, and what was regarded on all hands as a reasonable requirement.

Mr. POWERS of Massachusetts. I would like to ask the gentleman this question: If the amendment he proposes is adopted, then there is a greater protection extended to an ambassador than is extended to the President under this bill.

Mr. CRUMPACKER. That is a suggestion that has no kind of importance in this connection. I think that the gentleman

will concede that there is no responsibility resting upon the shoulders of this Government of a more solemn character than that of protecting the lives of the diplomatic representatives of the different foreign countries that it invites here and through whom it transacts international business. They are utterly at the mercy of our laws. I submit that there is no more solemn duty resting upon us, and if we fail to protect our own citizens adequately; if we fail to throw sufficient safeguards around the Chief Executive of the country, it does not in the least exonerate us from this important duty. President Harrison in one of his messages, perhaps the last one he delivered to Congress, recommended—seriously recommended—the passage of a Federal law making it a crime to assault or assassinate any subject of a foreign country who was here under and by virtue of the terms of a treaty, because, as he forcibly said, it was liable to lead to international complications. There is hardly a session of Congress that claims for damages are not presented to this Government for indemnity for the assassination or murder of subjects of foreign Governments.

Mr. GILBERT. May I ask the gentleman a question?

The CHAIRMAN. The time of the gentleman has expired.

Mr. GILBERT. Is there anything——

The CHAIRMAN. The time of the gentleman has expired.

Mr. GILBERT. I ask unanimous consent that he may be permitted to answer this question.

The CHAIRMAN. The gentleman from Kentucky asks unanimous consent that the time of the gentleman from Indiana may be extended for five minutes. Is there objection? [After a pause.] The Chair hears none.

Mr. GILBERT. I want to know if there is any country in the world that affords greater protection to foreign ministers than is afforded for the protection of her own citizens?

Mr. CRUMPACKER. Well, there ought to be none. I am not prepared to say whether there be any such country or not. There ought to be none. The Federal Government might be in that category, as it could protect the lives of citizens and subjects of foreign countries under international law, it has the constitutional power to do it, but it does not have the constitutional power to protect the lives and the property of its own citizens where they are assailed within the limits of a State.

Mr. GILBERT. Do you think it is a reflection upon our Government?

Mr. CRUMPACKER. Whether it is a reflection upon our Government or not, it is a simple statement of fact.

Mr. GILBERT. Why will not your doctrine legitimately extend to the proposition that all the police regulations and all criminal law ought to be conferred upon the General Federal Government and surrendered by the States?

Mr. CRUMPACKER. Oh, no, it does not involve that at all, because when we negotiate treaties with foreign countries by the terms of which we admit foreign subjects into our jurisdiction, we give them a solemn promise that we will surround those subjects with adequate protection as far as our laws and institutions will permit, and that is one of the high and solemn obligations that we are under with reference to our relations with foreign countries. It is these obligations we are endeavoring to provide for, and the qualifications, I again assert, Mr. Chairman, limiting the crime that is attempted to be defined by this section, are unnecessary to make the section constitutional.

I believe that a general law ought to be enacted by this Government authorizing the Federal Congress to punish those who feloniously assault citizens of a foreign country received within our jurisdiction, not because I love them better than our own, but because if we fail to furnish adequate protection it is liable to involve this Government in dangerous foreign complications. We are called to account for it every year, and our weakness has been held up before the world for more than half a century. We are humiliated on account of the lack of power as one of the sovereign units of the great world's family of nations to perform in full measure our international obligations. It is a question more important than at first blush it would seem.

Judging from some of the sentiments that have been uttered in this debate, if a representative of an unpopular foreign government should be unlawfully and feloniously attacked and slain here, it would be extremely difficult to get a jury that would administer any kind of punishment at all. If the Federal Government does not see fit to maintain diplomatic relations with a foreign country, well and good; but as long as it does, I ask the gentleman if it does not owe it the high and solemn duty to carry out in full all of the implied incidents of that relation? If we can not protect diplomatic representatives of foreign sovereigns, we should sever our relations with them.

[Here the hammer fell.]

Mr. RAY of New York. Mr. Chairman, this amendment ought not to be agreed to. By this bill we go as far as we ought to go. We protect these foreign ambassadors and ministers when they are engaged in the performance of official duties; we invite them here; we admit them here; we permit them to be here for that purpose. When they are not engaged in those duties, let them take their chance the same as American citizens. If they see fit to go from their post of duty and visit through the various States, let them do what the American citizen does—look to the State for protection. The State will take care of them; the juries of the several States will take care of them, and they will have justice. I trust the amendment will be disagreed to and let us go along with the bill.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana.

The question was taken, and the amendment was rejected.

Mr. SMITH of Kentucky. Mr. Chairman, I offer the following amendment:

The Clerk read as follows:

Amend by striking from section 3, lines 1 and 2, the words "unlawfully, purposely, and knowingly," and insert in lieu thereof the words "willfully and with malice aforethought."

The question was taken, and the amendment was rejected.

Mr. PADGETT. Mr. Chairman, I want to offer an amendment to section 3.

The Clerk read as follows:

Section 3, line 9, after the word "purposely," insert the word "maliciously."

The question was taken, and the amendment was rejected.

The Clerk, proceeding with the reading of the bill, read as follows:

SEC. 4. That any person who attempts to commit either of the offenses defined in sections 1, 2, and 3 of this act shall be imprisoned not less than ten years.

MESSAGE FROM THE SENATE.

The committee informally rose; and Mr. WARNOCK having taken the chair as Speaker pro tempore, a message from the Senate, by Mr. PARKINSON, its reading clerk, announced that the Senate had passed bills and joint resolution of the following titles; in which the concurrence of the House of Representatives was requested:

S. 5931. An act granting an increase of pension to Clara E. Daniels;

S. 5879. An act to remove the charge of desertion from the army record of Eli Hibbard;

S. 4374. An act granting an increase of pension to Abraham Shreeves;

S. 4183. An act granting an increase of pension to Oceana B. Irwin;

S. 5049. An act for the relief of Sylvester Van Sickel;

S. 5045. An act granting an increase of pension to Mary A. Moore;

S. 5836. An act granting an increase of pension to Jesse Nesbit Smith;

S. 4623. An act granting an increase of pension to Lewis F. Ross;

S. 5774. An act granting a pension to Asa E. Sampson;

S. 5719. An act granting an increase of pension to Sidney V. Lund;

S. 1980. An act granting a pension to William D. Stites;

S. 4709. An act granting a pension to Nelson W. Wade;

S. 3508. An act granting an increase of pension to James M. Thomas;

S. 3493. An act granting an increase of pension to Charles W. Rose;

S. 1743. An act granting a pension to Cornelia F. Whitney;

S. 5893. An act granting an increase of pension to Willi Thomas;

S. 5361. An act granting an increase of pension to Martha A. Johnston;

S. 473. An act granting an increase of pension to Mabery H. Presley;

S. 1801. An act granting an increase of pension to James K. Van Matre;

S. 1205. An act granting a pension to Isabelle H. Irish;

S. 1193. An act granting an increase of pension to Jane M. Meyer;

S. 5782. An act granting a pension to Nannie B. Turner;

S. 1944. An act granting an increase of pension to Ann E. Tillson;

S. 3236. An act to correct the military record of Hays Gaskill;

S. 1479. An act granting an increase of pension to Thomas L. Caughey;

S. 586. An act for the relief of Frank C. Darling;

S. 4923. An act to ratify and confirm a supplemental agreement with the Creek tribe of Indians, and for other purposes; and

S. R. 83. Joint resolution directing the Secretary of War to investigate the feasibility of operating an ocean dredger on the bar at the mouth of the Columbia River, in the States of Oregon and Washington.

The message also announced that the Senate had passed with amendments bills of the following titles; in which the concurrence of the House of Representatives was requested:

H. R. 3442. An act to correct the record of John O'Brien;

H. R. 7679. An act granting an increase of pension to Franklin Snyder;

H. R. 13278. An act granting an increase of pension to Levi H. Collins;

H. R. 3309. An act to remove the charge of desertion against Ephraim H. Gallion;

H. R. 12828. An act granting a pension to Mary E. Culver;

H. R. 9723. An act granting an honorable discharge to Levi Wells;

H. R. 12420. An act granting a pension to Wesley Brummett; and

H. R. 9870. An act to correct the military record of Reinhard Schneider.

The message also announced that the Senate had passed without amendment bills of the following titles:

H. R. 9496. An act granting a pension to Forrest E. Andrews;

H. R. 1741. An act granting an increase of pension to Griffith Evans; and

H. R. 12797. An act to ratify act No. 65 of the twenty-first Arizona legislature.

The message also announced that the Senate had agreed to the reports of the committees of conference on the disagreeing votes of the two Houses on the amendments of the Senate to bills of the following titles:

H. R. 8794. An act granting an increase of pension to Henry I. Smith; and

H. R. 9544. An act granting an increase of pension to George W. Barry.

PROTECTION OF THE PRESIDENT.

The committee resumed its session.

Mr. POWERS of Massachusetts. Mr. Chairman, I offer the following amendment.

The Clerk read as follows:

Strike out in line 17, page 4, after the word "shall," the following: "may be imprisoned not less than ten years," and substitute the following: "suffer death or imprisonment for life, as the jury may recommend."

Mr. POWERS of Massachusetts. Mr. Chairman, if this amendment is adopted, this section will read as follows:

That any person who attempts to commit either of the offenses defined in sections 1, 2, and 3 of this act shall suffer death or imprisonment for life, as the jury may recommend.

I want to suppose just one case and leave it there. This is a bill to protect government. It is not a bill to protect individuals. It is designed to protect the Government against those who make attacks on officials with a view to destroying the Government. Now, let us suppose a case of an anarchist who, with malice aforethought, or, to use the language in the bill, who purposely, knowingly, and willfully undertakes to take the life of a President. He complies with all of the qualifications and limitations of the act, but, in the attempt to take the life of the President of the United States, he just falls short of doing it; but he successfully incapacitates the President so that he is unfit for further performance of official duties.

Now, I think you will agree with me that he has completed all that he intended to accomplish, and that was to incapacitate the Chief Executive of the country; and yet, under the provisions of this bill as it now stands, the only penalty that could be imposed upon him would be imprisonment.

Mr. RAY of New York. Imprisonment for life.

Mr. POWERS of Massachusetts. The imprisonment must be for at least ten years and may be for life.

Now, my amendment leaves it for the jury to take into consideration all the facts. If it be an extreme case, where the assailant has so far injured the Chief Executive as to render him incapable of further service as the chief ruler of the American people, then we leave it to a jury to say whether the assailant ought to suffer death or not. And we may safely leave that question in the hands of an American jury.

I say to you, Mr. Chairman, and I say to the gentlemen of this House that the people of this country demand a more drastic punishment than is provided in the bill reported by the committee. When this matter was under consideration in committee I fought out this question, and I reserved the right at that time to offer the amendment which I now submit, and I did so because I believed that the people of this country demand that the punishment shall be greater than has been written in this bill.

In my view, Mr. Chairman, we are not legislating for the protection of human life; we are legislating for the protection of the Government; we are legislating against a crime which does not affect only the life of the President but affects the lives, the welfare, and the interests of 80,000,000 of people. And are we going on record here by saying that he who makes a premeditated assault upon the President of the United States so as to incapacitate him mentally and physically for the further performance of duty, so that he has to step out of office and some one in the line of succession take his place—are we going to say that such an anarchist, such a red-handed assassin, shall receive only imprisonment at the hands of an American court and an American jury?

I trust that this amendment which I have proposed will be adopted by the House and that we shall go on record as having enacted a bill which shall be forcible and which shall be sufficient to meet the purpose for which it has been framed.

Mr. RAY of New York. Mr. Chairman, we provide in this bill that if a person attempts to commit either of the offenses mentioned in the first three sections he shall be punished by imprisonment for a term not less than five years; such imprisonment in certain cases may extend during his natural life. Now, that is as severe as the law of any State is or has been made in any civilized country for the last fifty years. As I said the other day, the efficiency of a law in every aspect is not because of its bloodthirsty character; not because of the bloodthirsty disposition evinced by the legislators who enact it; not in the severity of the punishment. When you have a too severe penalty it is many times impossible to secure a conviction.

Acting under that idea, this Congress three years ago passed a law leaving it with the jury in all cases of murder in the first degree to say whether the criminal should suffer death or imprisonment for life. Two hundred and fifty years ago there were in England nearly 250 crimes punishable with death. In the case of treason it was the law that the offender should not only lose his life, but it was thought that the crime would be more efficiently repressed, less liable to be committed, and the law better calculated to protect the Government if there were added after-death punishment; so it was provided that the body of the person convicted should be drawn and quartered and the quarters hung up at the gates of the city and his head put on a pike.

At that time it was punishable by death for a poor widow to steal a loaf of bread to feed her starving children. It was punishable with death if a man robbed another of a dollar, or of a horse, or of $1,000. So I might go on and recite 250 offenses which were made punishable by death. Yet, in spite of such severity of punishment, crime ran riot in the streets of London. Robberies were committed in the suburbs of that great city and through the byways and on the highways. And in New England, soon after our Puritan forefathers came and settled that great country, there was provided a punishment for the crime of witchcraft; and a person convicted of that crime was subjected to the punishment of having his ears cut off, or a hole cut through his tongue, or some punishment of similar severity inflicted.

But civilization has moved right on, even in New England. [Laughter.] We have no longer there any laws against witchcraft. The severity of her laws have been mitigated. There is only one offense there punishable with death—or two—murder and treason. We know nothing now of drawing and quartering; there is no punishment after death except such as is given by our Heavenly Father.

Mr. LITTLEFIELD. And some people doubt that.

Mr. RAY of New York. Yes, some doubt that.

Now, I appeal to this Congress not to be carried away by passion. Let us not think we are to lessen the commission of crimes of this character by inflicting the death penalty where a simple attempt is made which fails. By such severity you discredit your law. You may gratify a few people who want the law very severe, and who in advocating such a law may think they are doing a patriotic thing, but you will offend the masses of those people who believe that

> The quality of mercy is not strained;
> It droppeth as the gentle rain from heaven
> Upon the place beneath; it is twice bless'd;
> It blesseth him that gives and him that takes.

[Applause.]

Mr. Chairman, I trust this amendment will not be agreed to.

Mr. WARNOCK. Mr. Chairman, the amendment to this bill which I just proposed to offer is substantially the same as the one now pending offered by the gentleman from Massachusetts [Mr. POWERS]. The bill as presented by the committee provides that any person who attempts to kill the President and the officers named in the same section shall be imprisoned not less than ten years. The amendment proposed by the gentleman from Massachusetts punishes such an attempt by imprisonment for life, or death, as the jury shall recommend.

In passing upon this question it is well to ascertain, if possible, what the people generally think about it. For, after all, an enlightened public opinion is about as safe a guide as we can follow. You will all readily recall the fact that about the fourth or fifth day after President McKinley was shot that the word was sent out to the country that he was improving rapidly and that he was in a fair way to recovery. The country rejoiced over the good

news, thanksgiving services were held, congratulatory messages were sent, despondency gave way to hope, and the people said, "Our President will live." But in the midst of the general rejoicing there was a widespread feeling of the most intense dissatisfaction when it was learned that if the President recovered his assailant could only be punished by imprisonment not exceeding ten years.

This penalty was universally felt to be wholly inadequate for the crime committed, and everywhere the demand went up for the enactment of laws which would specifically protect the President. It was well known that if the President died the laws of the State of New York would punish the assassin by death, and it was equally well known that the assassin would be thus punished because he had killed a man and not because he had killed the President; hence the universal, stern demand of the people for legislation on this subject. It is safe to say that 90 per cent of the members of this House publicly declared themselves at that time in favor of such legislation and voluntarily pledged themselves to the support and enactment of such legislation.

Let us, then, consider the bill proposed by the committee in its full scope and contrast it with the Senate bill.

For more than twenty years there had been organizations in this country and in Europe which had openly advocated violence and unreasoning hatred against everyone in executive place, were he a devil or an angel. Under the influence of these teachings some of the most dastardly crimes of the age had been committed.

At Haymarket Square, in Chicago, in 1886, at a meeting where revolutionary doctrines were proclaimed, a bomb was thrown, resulting in the death of 7 policemen and the injury of a large number of others.

In 1893 at Barcelona, Spain, an anarchist congress was held. A bomb was thrown by anarchists, which resulted in killing 30 people and wounding 80. And in Chicago the same year Mayor Carter H. Harrison was assassinated.

In 1894 President Carnot, of France, was assassinated.

In 1897 the premier of Spain was assassinated by an Italian anarchist.

In 1898 the Empress Elizabeth was brutally murdered by another Italian anarchist, and less than two years ago King Humbert was assassinated by another anarchist.

In September, 1901, McKinley was assassinated by an anarchist. The time had come when all those who proclaim themselves as enemies of human society and human government should not be permitted to hold meetings to teach their diabolical doctrines. The time had come when they should not be permitted to disseminate their revolutionary documents and papers. The time had come when any attempt upon the lives of any of our chief executives should be punishable by death.

William McKinley was the victim of these teachings. When the assassin fired the fatal bullet on the 6th of last September which killed our President, he was not actuated by the spirit of revenge or of personal hate. He did not know the President. If he had, he could never have fired the fatal shot. The President had never harmed him. He fired the shot because he had learned to hate all those in authority. McKinley had to die because he was the head of a mighty nation. He was killed because he was President and not because he was McKinley. He was called to suffer a martyr's fate because he dared to accept the high office to which the people called him. How heroically he met his fate!

The world has been thrilled with the utterances of John Huss and Archbishops Cranmer and Latimer and others of the holy martyrs as they were led to the stake to be burned. We have wondered at their fortitude and courage and endurance. We have marveled at their expressions of holy triumph, but there is nothing in all history that for pathos and courage and sublime faith equals that scene at the Milburn house in Buffalo last September when William McKinley, stricken down in the midst of his greatest usefulness, at the very zenith of his fame, with the prospect of long life and the accomplishment of his most cherished aspirations, turning to the stricken group around his bedside and saying, "Good-bye all, good-bye. It is God's way. Not our will, but His be done."

William McKinley is dead, but his character abides. The principles of justice and equity and liberty and humanity and patriotism for which he stood will continue to abide until at last all nations, all peoples in all climes and everywhere, will be brought under their sway.

> For right is right, since God is God,
> And right the day must win;
> To doubt would be disloyalty,
> To falter would be sin.

And now we are here to carry out the will of the people; to enact such laws as will protect the President as President; to protect him as the head of the Government.

It has been argued on this floor that the President is not entitled to any more protection than any other citizen; that the life of one good citizen, however humble, ought to be protected with the same care and vigilance as the life of the best and highest and mightiest citizen of the Republic. The gentlemen who have advanced these arguments have utterly and absolutely failed to comprehend the scope and purpose of this bill. The purpose of this bill is to protect the President, to protect our Government, and does not in any sense legislate for the President as a citizen, but only as the head of the Government. No one disputes the proposition that all citizens are entitled to precisely the same protection. No one has even advocated any discrimination in the protection that should be accorded by the laws to every citizen, whether of high or low degree. Why gentlemen should set up that man of straw and proceed to demolish him is difficult to understand. The equality of protection to all citizens alike is not involved in the measure before the House. The sole question is, Shall we protect our Government and the head of our Government against the assaults and conspiracies of anarchists?

It has also been argued here that the bill is unconstitutional, that it invades the jurisdiction of the States, and that for the same reason the Senate bill is also unconstitutional, and as both bills are before us for consideration let us consider briefly the Senate bill. For the purpose of this argument I consider only so much of section 1 of the Senate bill as is necessary to understand the provisions which are said by these gentlemen to be unconstitutional.

> SEC. 1. That any person who shall, within the limits of the United States, or any place subject to the jurisdiction thereof, willfully and maliciously kill or cause the death of the President or Vice-President of the United States, or any officer thereof upon whom the powers and duties of the President may devolve under the Constitution and laws, shall be punished with death.

The mistake which the gentlemen make who argue that this provision is unconstitutional has already been referred to, to wit: They have not been able to get out of their minds that this is not a bill to punish murder, but a bill to protect the head of the Government; a bill to prevent an assault upon the Government itself; and these gentlemen have proceeded to argue about the elements which are necessary to constitute murder in the first and second degrees, and what constitutes manslaughter, and the equal rights of citizens and the rights of the States and the limitations of the Constitution.

I assert that under the Constitution of the United States anything is constitutional which is necessary to the preservation of the Government; that the extremity makes the law, as for instance, the war measures. The legal-tender act, for example, would not have been held constitutional except for the extremity. Can there be any greater extremity for a government than that of being deprived of its legally constituted head? A government left to the mercy of contending factions, each striving for supremacy, would soon bring about the destruction of the rights of the weaker, or, worse than all, would result in anarchy. But it is not necessary to resort to the plea of extremity to find constitutional warrant for the enactment of this law.

There is an inherent right in any government to take such measures or to enact such laws as are necessary for its safety and its preservation, unless there is an express limitation upon that right in its constitutional law. There is no such inhibition in the Constitution of the United States. The rights reserved to the States do not limit the power of the General Government to do any and all things necessary for its safety and preservation.

The majority of the committee presenting this bill admits the foregoing proposition to be true, but asserts that the enactment for the protection of the President, in order to be constitutional, must, in set terms, provide that the assault on the President, or the injury done to him, must be committed or inflicted under certain circumstances, and that outside of those particular circumstances there is no power in Congress to protect the President within the several States. In furtherance of that assertion, the majority of the committee has offered a substitute for the Senate bill.

I quote only so much of the substitute as is necessary to show the position of the committee:

> That any person who unlawfully, purposely, and knowingly kills the President of the United States while he is engaged in the performance of his official duties, or because of his official character, or because of any of his official acts or omissions shall suffer death.

It is contended that without these provisions in the bill, as to how the President was engaged and as to his official acts, etc., it would be unconstitutional. This contention is based largely upon the reasoning of the Supreme Court of the United States in the following cases: In re Neagle, 135 U. S., 1; United States *v.* Fox, 95 U. S., 670, and some other cases cited. But none of these cases decide the question now before us for consideration.

In the Neagle case the court devoted a great part of the opinion to proving that Justice Field of the Supreme Court was engaged

in the performance of an official duty when on his way from Los Angeles, Cal., where he had held court, to San Francisco to perform a similar duty, and that when on that journey he was attacked by Judge Terry, and Neagle killed Terry in defending Field. Neagle was a deputy marshal and accompanied Field by order of the Department of Justice for the purpose of protecting him from threatened personal violence. The court held—

That Neagle under the circumstances was acting under the authority of the United States and was justified in so doing.

The decision being based on the finding that Field was in the discharge of his official duties does not limit or restrict the following provision of the Constitution found in Article I, section 8:

The Congress shall have power * * * to make all laws which shall be necessary and proper for carrying into execution the foregoing powers and all other powers vested by this Constitution in the Government of the United States, or in any department or officer thereof.

That grant of power is ample to give Congress the authority to protect the life and person of the very agency by which the Government is carried on. Let us consider the effect of the proposed substitute offered by the committee.

Every lawyer will admit that in order to convict a person of the violation of any criminal statute it is necessary to prove, beyond a reasonable doubt, every fact which goes to make up the offense as described in that statute.

Measured by that rule, it would be necessary, in order to convict under the bill recommended by the committee, to prove that the defendant knowingly killed the President while he was engaged in the performance of his official duties, or because of his official character, or because of his official acts or omissions. The burden, by this bill, is placed on the Government of proving a state of facts that might be exceedingly difficult to prove, and which it ought not to be compelled to prove in the case of a man who unlawfully, purposely, and knowingly kills the President. I am in favor of a law that will protect the President whether he is asleep or awake, whether he is writing a message to Congress or riding in a park for recreation, not because he is a great citizen, but because he is the head of the Government.

Some have argued that there is no burden placed on the Government by the provisions of this bill, for the reason that the President, because of the nature of his duties, is always engaged in the performance of his official duties, and that it is a presumption of law that, as the head of the Government and Commander in Chief of the Army and Navy, there is never a time when he is not so engaged. If that be true, then it is worse than useless to so word a statute as to compel the United States to prove it as an independent fact. It tenders an issue of fact to be tried which the law presumes to be already established. It requires the question of fact to be submitted to the jury for their determination upon the testimony and the charge of the court, and if the facts disclosed that the President was killed while engaged in fishing on Decoration Day, who can tell what the verdict of the jury would be?

There is no question but what if a person maliciously, deliberately, purposely, and with premeditation killed a boy who was fishing on Decoration Day within the jurisdiction of the State of New York, he would be punished by death, under the State laws; but if you undertake to try a man in the Federal courts under this proposed law who kills the President, who is fishing on Decoration Day, the assassin might be acquitted by the jury on the ground that he was not engaged in the performance of his official duties. Of course the jury might find the assassin guilty under the other provisions of the bill, but if they did the Government would have to prove beyond a reasonable doubt that the assassin killed him because of his official character or because of his official acts or omissions.

Why require all that proof? Why all that circumlocution? Why not protect the head of our Government by enacting that whoever willfully and maliciously kills or causes the death of the President shall suffer death?

If, on the other hand, there are times in the contemplation of law when the President is not engaged in the performance of his official duties, then it becomes the duty of Congress to throw around him the protection of the law at such times, for the killing of the head of the Government is fraught with as great danger to the Republic if he be killed in a theater as if he were killed at a Cabinet meeting.

The other cases cited by gentlemen were cases in which the Supreme Court of the United States passed upon acts of Congress enacted for the protection of colored men of the South under and by virtue of the constitutional amendments. These acts were held unconstitutional because by their terms they protected white citizens as well, and as the provisions of the laws could not be separated, and included citizens not named in the amendments, the entire law was held unconstitutional; but none of these questions are involved in the proposed legislation. This measure provides for the protection of the Government, and not the protection of the citizen.

Let us enact a law that when a person unlawfully and maliciously kills or causes the death of the President of the United States or any officer upon whom the powers and duties of the President may devolve under the Constitution and laws may be punished with death. [Loud applause.]

Mr. ALEXANDER. Mr. Chairman, I wish the gentlemen of the House would go back to the 7th day of September last and recall the feeling of horror and indignation that passed over their respective communities when it was learned that Czolgosz, the President's assassin, could not be punished to exceed ten years in the penitentiary, under the laws of the State of New York, provided the President lived. The first thing the citizen asked was, could any arrangement be made by which he could be given a longer and severer sentence? Everyone seemed horrified that the assassin would escape with only a few years in the penitentiary, provided the President lived, as it seemed not unlikely for a day or two.

Everybody knew that he was an anarchist who had gone to Buffalo for the purpose of shooting the President to death because he was the President, and only for that reason; that the assassination had been deliberately planned, no doubt, and thoroughly understood, possibly, by others, that he was to be there on that occasion, at that time, to take the life of the President of the United States.

I hope the amendment of the gentleman from Massachusetts [Mr. POWERS] will obtain. The man who shoots at the President of the United States for the purpose of taking his life ought, even if he misses him or if he wounds him, to suffer the same penalty as if his intent were carried out and death followed. [Applause.]

Mr. SMITH of Kentucky. I should like to ask my colleague a question. The trouble in the case of President McKinley's assassination was that the law of the State of New York would not permit the punishment of the assassin to be greater than imprisonment for ten years in the event that the President had lived. But now if you fix the punishment as proposed in this statute, that he may be imprisoned not less than ten years, does not that put it in the discretion of the jury to make it any number of years, and can we not trust the juries of the country to fix that penalty?

Mr. ALEXANDER. If the gentleman from Kentucky will pardon me, I believe that under the circumstances attending the assassination of President McKinley the assassin should suffer death or imprisonment for life, even if his crime did not result in death.

Mr. CLARK. Mr. Chairman, I should like to ask the gentleman a question. I will ask him if the argument that he has made in favor of the severe penalty for the assaulting of the President and Vice-President and those in the line of succession does not make it apparent that that third section about the ambassadors and ministers ought to go out of the bill?

Mr. ALEXANDER. I do not think so.

Mr. NEVIN. Mr. Chairman, I trust the American Congress when it legislates never will get in the frame of mind in which the gentleman from New York [Mr. ALEXANDER] wants it to be, namely, the way its members felt the day they heard of the infamous attack upon President McKinley. I think we ought to get away from that feeling as far as possible when we come to pass laws; and I want to call the gentleman's attention to another thing, and that is, that probably in the history of this country there will never again be an attack under such circumstances and of such an infamous character upon the President of the United States. This bill provides that if anyone makes an attempt upon the life of the President he shall be punished in a certain way. Now, supposing some poor, deluded, half-witted, and defeated officeholder should shoot at the President and not touch him at all. Under this amendment, what must occur? The jury must send him to the penitentiary for life. In a case like the killing of President McKinley——

Mr. ALEXANDER. Will the gentleman allow me?

Mr. NEVIN. Yes.

Mr. ALEXANDER. As I understand the amendment of the gentleman from Massachusetts, it provides either imprisonment or death.

Mr. NEVIN. Oh, yes; the amendment provides that it must be either death or imprisonment for life. Now, suppose it was a poor, half-witted, defeated officeholder, a man like Guiteau, who, when he was hanged, was, in my judgment, a babbling idiot; and if it had not been that it was for the killing of the President of the United States for which he suffered it would have been a disgrace to the jurisprudence of any State in this country to hang him.

Now, suppose a man like Guiteau or some man of that kind

shoots at the President and misses him. The jury may not want to send him to the penitentiary for life, and may not want to hang him. Under that amendment what can they do? Can they find him guilty and give him ten or twenty years or five years in the penitentiary? No; they must either sentence him to be hanged or to the penitentiary for life. If it was a case like that of the infamous attack of Czolgosz on McKinley, then I would be with you; but if you are legislating for all classes of people for all time and under all circumstances, then I am against it, and I ask you to consider that you are putting upon the statute books here something that will reach all classes of people under all circumstances. [Applause.]

Mr. POWERS of Massachusetts. Mr. Chairman, I ask unanimous consent to withdraw the amendment which I have offered and to offer in place of it this amendment: In section 4, line 15, after the word "commit," insert the words "the offense defined in section 1 of this act shall suffer death or imprisonment for life, as the jury may recommend," and then strike out the word "one" in the sixth line.

Mr. RAY of New York I do not understand the effect of the amendment.

The CHAIRMAN. The gentleman from Massachusetts will send the amendment to the Clerk's desk.

Mr. RAY of New York. There is an amendment already pending that we have not voted on.

The CHAIRMAN. The gentleman from Massachusetts asks unanimous consent to withdraw the amendment he offered, and offer a different one, varying somewhat in phraseology.

Mr. RAY of New York. To that I object, unless we understand the debate is closed and that we take a vote. If that is the understanding, I have no objection. We have debated on this subject nearly half an hour.

The CHAIRMAN. The gentleman from Massachusetts asks unanimous consent to withdraw the amendment he offered, and amend the amendment, differing in phraseology. Is there objection?

Mr. RAY of New York. There is objection unless it be understood——

The CHAIRMAN. The question recurs on the original amendment offered by the gentleman from Massachusetts.

The question was taken; and the amendment was rejected.

The CHAIRMAN. The gentleman from Massachusetts offers a second amendment to the proposition, which the Clerk will report.

The Clerk read as follows:

Amend section 4 so that it will read as follows:
"That any person who attempts to commit the offense defined in section 1 of this act shall suffer death or imprisonment for life, as the jury may recommend, and any person who attempts to commit either of the offenses defined in sections 2 and 3 of this act shall be imprisoned not less than ten years."

The CHAIRMAN. The question is on agreeing to the amendment proposed by the gentleman from Massachusetts.

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. RAY of New York. Let us have a division.

The committee divided; and there were—ayes 42, noes 43.

Mr. POWERS of Massachusetts. Tellers, Mr. Chairman.

Tellers were ordered.

The CHAIRMAN. The gentleman from Massachusetts [Mr. POWERS] and the gentleman from New York [Mr. RAY] will take their places as tellers.

The committee again divided; and the tellers reported—ayes 51; noes 62.

So the amendment was rejected.

Mr. OLMSTED. Mr. Chairman, I offer the following amendment:

The Clerk read as follows:

Add at the end of line 17, page 4, the following:
"And may be imprisoned for any longer term, in the discretion of the court."

Mr. OLMSTED. I offer that amendment, because I fear that as the statute now reads a person convicted of an offense can not be sentenced for a longer term than ten years, which is the minimum and only term fixed in this bill. This section as it now reads provides that the guilty person shall be imprisoned for "not less than ten years." The ordinary form of expression in such statutes is not less than so many, nor more than a certain number of years, thus fixing a minimum and authorizing a maximum, leaving it in the discretion of the court to impose any term between the two. Personally, I am not familiar with any statute which merely fixes the minimum without in any way conferring jurisdiction or discretion to impose any longer term.

Mr. RAY of New York. I will assure the gentleman.

Mr. OLMSTED. Do not assure me until I conclude. It may be that there are authorities for the language used—authorities that would justify the imposition of a longer term than the statute names—but I should be glad to see them. If there are, then my amendment is not necessary; but in any event it can do no harm, and it makes the matter certain.

But it seems to me, without having stopped to consult the authorities, that a statute which merely fixes the minimum term of imprisonment—which merely says "shall be imprisoned not less than ten years"—that would be held to be the maximum as well as the minimum in the absence of any legislation allowing the court power to impose any longer term. Now, in section 7 this bill authorizes a maximum at twenty-five years' imprisonment if any person shall harbor a person guilty of one of these offenses. It seems to me that we ought not to be less specific in giving the court discretion to impose a term of more than ten years upon the guilty person himself.

The CHAIRMAN. The question is upon the amendment offered by the gentleman from Pennsylvania.

The question was taken, and the Chairman announced that the noes appeared to have it.

Mr. OLMSTED. Division.

The committee divided, and there were—ayes 14, noes 45.

So the amendment was rejected.

Mr. LANHAM. Mr. Chairman, I move to strike out section 4.

The question was taken, and the amendment was rejected.

The Clerk read as follows:

SEC. 5. That any person who, while engaged in an unlawful attempt to inflict grievous bodily harm upon the President of the United States, or the Vice-President of the United States, or any officer entitled by law to succeed to the Presidency, while he is engaged in the performance of his official duties, or because of his official character, or because of any of his official acts or omissions, inflicts injuries on such President, Vice-President, or other officer which cause death, shall be imprisoned for life. If such injuries do not cause death, such offender shall be imprisoned not less than five years.

Mr. PALMER. Mr. Chairman, I move to strike out the last word, for the purpose of making an inquiry of the chairman of the Judiciary Committee. The first section provides that if anybody kills the President of the United States he must be hung for it. In this section of the bill it is provided that if anybody kills the President of the United States by inflicting injuries from which death results he gets imprisonment for life. I would like to know why. The result is the same in both cases.

This section provides that if anybody inflicts serious bodily harm upon the President, and if such injuries result in his death, then the perpetrator shall be imprisoned for life. I would like to know the difference between taking a pistol and killing the President and beating him with a club and injuring him so that he dies in six months.

Mr. GILBERT. Mr. Chairman——

The CHAIRMAN. Does the gentleman yield to the gentleman from Kentucky?

Mr. PALMER. Certainly.

Mr. GILBERT. You will also observe by section 4 that an attempt to kill is punished by not exceeding ten years, and in the latter part of section 5 an attempt not resulting in death is punished by a term not exceeding five years. There is conflict between this section of the bill and the other features of the bill.

Mr. PATTERSON of Tennessee. If the gentleman will allow me, I think in that provision perhaps the intention to kill does not exist.

Mr. PALMER. What earthly consequence is it? If the man who assails the President of the United States, intending only to inflict serious bodily harm, inflicts wounds which result in death, is it not as much murder as though he shot him with a gun? The whole purpose of the act is not so much to protect the individual as to protect the Government. What we are trying to do is to preserve the people of the United States from the calamity attending an assassination of the Chief Executive.

Mr. COWHERD. Does not this bill change what would be murder under the common law into imprisonment for life? If I understand the provisions of the bill, the criticism that the gentleman is making is that the person who makes the assault on the President intends to inflict grievous bodily harm.

Mr. PALMER. If death ensued, then he would commit manslaughter.

Mr. COWHERD. If he was in the act of committing a felony and the act results in death, it is murder in the first degree. While there may not be an intent to kill, if there is an intent to commit the felony, and in the effort to commit the felony death results, it is murder in the first degree.

Mr. PALMER. How can a man who makes an assault intend to commit a felony unless he intends to kill?

Mr. COWHERD. If he intends to do him grievous bodily harm.

Mr. PALMER. That is not necessarily a felony. The whole purpose of this bill is, Mr. Chairman, to preserve to the people of

the United States the right to have their President live, and I would like to know whether it makes any difference whether he is killed by a bullet from a pistol or whether he is injured in some other way and lingers along several weeks and then dies. In one case under this bill the punishment is death, and in the other case it is imprisonment for life.

Mr. RAY of New York. Mr. Chairman, only one word. In all civilized communities there is a distinction made between killing a man with an intent and purpose to effect his death and a killing without any such intent or purpose—an intent to injure where there is no intent to kill, but incidentally or otherwise you go too far and kill. We have maintained a distinction in fixing the punishment in cases of this kind. If a man intends to commit a crime while he is engaged in the commission of a felony, you might hang the offender. He is just as bad as though he had accomplished his purpose. Anyone knows that is true, but the laws of all civilized communities and of all States make a distinction. We have followed that idea, and it is followed in the Senate bill.

If a man only intends to assault the President and not to kill him, the punishment may be imprisonment for life or a much shorter term, depending on the circumstances. That is left to the discretion of the court, and we believe the courts of this country are so intelligent that they can be trusted to impose the proper penalty when a man is convicted to give him such a sentence as he ought to receive. The distinction between the first section and this one is that the first section puts in the words knowingly and purposely kill, etc. This section provides for those cases where there is no purpose or intent to kill, but simply an attempt to inflict grievous bodily harm. I may add that there is no State in the Union nor a civilized country on the face of the earth to-day that inflicts anything more than life imprisonment for this offense, except when in the commission of a felony a life is taken.

Mr. RUCKER. The gentleman is mistaken about the law.

Mr. RAY of New York. I am not mistaken. I have taken every statute and have collated them. The man that states to the contrary does not know exactly what he is talking about.

Mr. RUCKER. The gentleman from New York does not know all the law of this country by himself alone. [Laughter.]

Mr. RAY of New York. I understand that, but we have taken all the statutes and compiled them——

Mr. RUCKER. The gentleman's compilation may be all right, but his construction is wrong. I know the universal law is that a man is presumed to intend the usual consequences of his own act, and where he uses a deadly weapon, he is presumed to intend the natural and usual consequences of that weapon.

Mr. RAY of New York. Now, Mr. Chairman, I concede that, and I think that debate on this amendment is exhausted, and I call for a vote.

Mr. PALMER. Mr. Chairman, I withdraw my formal amendment, and now I offer the following amendment.

The Clerk read as follows:

Strike out the words "imprisonment for life," in line 5, and insert the words "suffer death."

Mr. PALMER. The point of the whole business is this: It hurts the people of the United States just as much to strike the President of the United States with a club, the injury inflicted resulting in death, as it does to kill him with a pistol.

Mr. PATTERSON of Tennessee. May I ask the gentleman a question?

Mr. PALMER. Yes, sir.

Mr. PATTERSON of Tennessee. Is it not the rule in all our courts that the intent characterizes and fixes the crime?

Mr. PALMER. Undoubtedly.

Mr. PATTERSON of Tennessee. Now, in the common law or the statutory law or otherwise has it ever been laid down as a proposition that you can punish a man for murder in the first degree without there having been an intent to kill?

Mr. PALMER. Certainly not.

Mr. PATTERSON of Tennessee. And does the gentleman think it right to provide the same character of punishment for a man who intends to kill the President as for the man who has no such intent?

Mr. RUCKER. May I ask the gentleman from Tennessee a question?

Mr. PATTERSON of Tennessee. I should like to have an answer to my question, and then I will answer the gentleman from Missouri [Mr. RUCKER].

Mr. PALMER. I think that in this case the intent and purpose of this bill is not only to preserve the life of the President, but to preserve the rights of the people of the United States and to deter assassination by severe punishment.

Mr. PATTERSON of Tennessee. Does not the gentleman think it would be a monstrous law which would put the man who had not the intent to kill in the same category with the assailant who had that intent?

Mr. PALMER. No, I do not; because the purpose of this bill is not altogether to provide a punishment for the murder of an individual. It hurts the people of the United States just as much to have the President killed by somebody who makes an assault not for the purpose of killing him, but for the purpose of inflicting "grievous bodily harm," as it does to have him killed by a man who intends to kill him.

Mr. PATTERSON of Tennessee. The death of the President might be the result of the malpractice of a physician. Does the gentleman think that under such circumstances the physician ought to be punished by death?

Mr. PALMER. Does the gentleman think that under this section a physician at whose hands the President had suffered malpractice would be indictable?

Mr. PATTERSON of Tennessee. That is not the question at all.

Mr. PALMER. That is my question.

Mr. RUCKER. Let me ask the gentleman from Tennessee how is the "intent" of a criminal proven?

Mr. PATTERSON of Tennessee. By all of the facts and circumstances surrounding the transaction.

Mr. RUCKER. Where a man uses unlawfully a deadly weapon upon another, does not the law presume that he intended that death should follow?

Mr. PATTERSON of Tennessee. There is nothing at all said about that in this provision.

Mr. RUCKER. It says:

That any person who while engaged in an unlawful attempt to inflict grievous bodily harm upon the President of the United States, etc.

Mr. PATTERSON of Tennessee. The intent to kill is not presumed; only malice is presumed at common law.

Mr. RUCKER. The intent is presumed where a deadly weapon is used—one likely to produce death or bodily harm—and under such circumstances the law conclusively presumes that it was the intent of the assailant to produce death, and he is dealt with accordingly. How else can you prove a man's intent?

Mr. PATTERSON of Tennessee. There is nothing in section 5 of this bill which says anything about a deadly weapon.

Mr. RUCKER. The language is:

Unlawful intent to inflict grievous bodily harm.

Mr. PATTERSON of Tennessee. Let me answer the question. The language of the bill is—

That any person who, while engaged in an unlawful attempt to inflict grievous bodily harm.

That is the language of the bill. The question which the gentleman from Missouri [Mr. RUCKER] has put to me is not a practical one; it is a suppositious one entirely.

Mr. RUCKER. What sort of "grievous bodily harm" is meant by the bill? What was in the mind of the committee?

Mr. PATTERSON of Tennessee. The gentleman's question is not a practical question, so far as this matter is concerned, and I can not answer what was in the mind of the committee.

Mr. CLARK. Mr. Chairman, nine-tenths of all the talk that has been heard in this House about this bill is utterly futile, and none more so than that which has been uttered on this particular section. From this remark I except the suggestion made by my colleague from Missouri [Mr. RUCKER]. Now, the truth about the whole thing is that the severity of punishment militates against inflicting any punishment at all. Every man in this House who has had any experience in the practice of criminal law knows that that is absolutely true.

Now, gentlemen are talking here about a case which I do not believe ever happened or ever will happen with respect to a President of the United States. That is the reason the talk is futile. Nobody is going to make an assault upon the President of the United States for the purpose of doing him great bodily harm, unless there is an intention to kill him.

Mr. PALMER. Then what is the use of this section?

Mr. CLARK. I do not see that there is very much use in it as to the President, because this is true (and we may as well recognize it): The court, and the jury, and everybody that has anything to do with trying a man who has killed the President of the United States will resolve every doubt in favor of the prosecution, instead of resolving such doubt, as usual, in favor of the accused. But this section does not apply to the President only. It applies to the Vice-President, it also applies to members of the Cabinet who may succeed to the Presidency, and I can readily conceive why, under some circumstances, a rational man might want to give a member of the Cabinet a thrashing—under some gross insult or provocation—though he would not undertake such a thing upon the President. Suppose a man did attempt to thrash a member of the Cabinet when the man concluded he needed a thrashing, and that he inflicted accidentally more punishment than he intended to inflict? Suppose he hit him with his fist? The presumption of law is that the human fist is not a deadly weapon.

I do not know whether that presumption would have applied to John L. Sullivan's fist when "Sully" was in his prime; but suppose the average citizen should get into a controversy with a member of the Cabinet, if this bill should pass, and the member of the Cabinet insulted him outrageously and the man struck him a crack with his fist and there was more power in his fist than he supposed there was or the physical condition of the member of the Cabinet was frail when his assailant did not know it, and he killed him, it does not comport with either common sense or justice to hang the man under any such circumstances as that. Now, every member wants to vote for a good deal of this bill, but there is no sort of sense in loading it up and making it so bloody that a rational man can not vote for it, and while nobody appointed me to defend the Judiciary Committee in this House, my impression is, with all due deference to everybody, that the Judiciary Committee, after studying over that section as long as it did came to about as reasonable a conclusion as we can arrive at here in the hurly-burly of the House with a storm going on outside. You will never have any application of this section except to hang somebody for knocking somebody else down.

Mr. RAY of New York. Mr. Chairman, I call for a vote.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania.

The question was taken, and the amendment rejected.

Mr. OLMSTED. Mr. Chairman, I offer the following amendment.

The Clerk read as follows:

Amend by adding at the end of line 5, page 5, the following:
"And may be imprisoned any longer term, at the discretion of the court."

Mr. OLMSTED. Mr. Chairman, this section as it now stands provides that if anybody makes an assault upon the President and the President dies the offender may be imprisoned for life, but if the President does not die, then for "not less than five years." But it nowhere authorizes imprisonment for more than five years. Now, I say, and I challenge the chairman of the Judiciary Committee to point me to any authorities to the contrary, that the extent of punishment under that act, if the President does not die, is five years; I think that would not be satisfactory to the members of this committee.

It certainly would not be satisfactory to the people of the United States. It would not be satisfactory to anybody if it were known that under this bill an assault upon the President of that character, the President maimed perhaps for life, his mind gone perhaps, or the assault resulting in any one of a thousand other ills that might afflict him for the balance of his life, would subject the offender to imprisonment for only five years.

I do not suppose this amendment will pass for two reasons. I do not offer it to embarrass the bill. I am in favor of the bill and desire to make it as nearly perfect as possible. The chairman of the committee will concede that my amendment would not hurt the bill, and yet there seems to be a sort of pride of opinion in not having a word of it changed. Therefore the Judiciary Committee will oppose it. There are a good many gentlemen on the opposite side of the House who do not want the bill perfected, because they do not want it passed at all, and therefore they will vote against the amendment, but I am going to do my duty and propose this amendment, which leaves it in the discretion of the court to give the offender a longer term than five years.

Mr. RAY of New York. Mr. Chairman, the gentleman from Pennsylvania seems to labor under the impression that this language would not permit imprisonment for more than five years: "Such offender shall be imprisoned not less than five years."

Mr. OLMSTED. Where is the authority for more than five years?

Mr. RAY of New York. Now, if I could bring a law library down for the instruction of the gentleman, or if I had thought it necessary I would have done it, but on such a simple proposition as that I do not think it is necessary.

Mr. OLMSTED. If you will bring the whole law library, you will not find any authority to contradict my position nor to sustain your contention that when you simply say "such offender shall be imprisoned not less than five years," you confer any power upon the court to sentence him for any longer period.

Mr. RAY of New York. The gentleman says that, and I tell him that the Committee on the Judiciary had that language under consideration. We had language in there saying that it should not be for less than five nor more than ten, and then we looked up and found the decisions——

Mr. OLMSTED. Where are they? Show me one.

Mr. RAY of New York. All I can say is that I do not think the gentleman could understand it if I did show it to him. We found the decisions, and then we struck out that language that the gentleman suggests as surplusage, in order to make the bill brief.

Mr. SNODGRASS. Mr. Chairman, I would like to ask the gentleman a question. Does the gentleman understand that any maximum punishment to be applied here is within the discretion of the jury?

Mr. RAY of New York. I understand that it is in the discretion of the court, not the jury.

Mr. SNODGRASS. I mean of the court. And any maximum above five years is within the discretion of the court.

Mr. RAY of New York. He is to be imprisoned, in the discretion of the court, for such term as the court inflicts, not longer than life and not less than five years.

Mr. OLMSTED. But it does not say so.

Mr. RAY of New York. It is not necessary to say so.

Mr. PAYNE. I would like to ask the gentleman if he would have any objection to inserting "for a term"—shall be imprisoned for a term not less than five years? I think if the gentleman did that it would clear up the objection of my friend from Pennsylvania [Mr. OLMSTED].

Mr. LANHAM. In my State the penalty for murder in the second degree is for any time not less than five years.

Mr. OLMSTED. In the discretion of the court? That would certainly not authorize more than five years.

Mr. LANHAM. In the discretion of the jury. The penalty there is fixed by the jury.

Mr. RAY of New York. This is the language of the Revised Statutes of the United States in more than a dozen instances.

Mr. OLMSTED. I should like to see one of them.

Mr. RAY of New York. Take the Revised Statutes and read them as we have.

Mr. SNODGRASS. I want to ask the chairman of the Judiciary Committee if he thinks imprisonment could be imposed by the judge for any time beyond the period of five years under this provision?

Mr. RAY of New York. I have already answered that question.

Mr. SNODGRASS. The confusion was so great that I did not understand the gentleman.

Mr. RAY of New York. I say, under the language of that section, the offender if convicted can be imprisoned for the term of his natural life, and not less than five years, in the discretion of the judge. I say, that is the language in many instances in the Revised Statutes to-day.

The question being taken on the amendment, it was rejected.

Mr. TAWNEY. Mr. Chairman, I offer an amendment to strike out, in line 20, after the word "or," all of line 21 and the word "Presidency" in line 22; also, in line 25, strike out the words "Vice-President or other officer," and insert after the word "shall" the words "suffer death;" strike out "be imprisoned for life."

That would leave the section applicable only to an assault upon the President of the United States for the purpose of inflicting grievous bodily harm. In the event of the death of the President as the result of such an assault, the person committing the crime would then suffer the penalty of death. Now, the previous section here protects the Cabinet officers. Section 2 provides that—

Any person who unlawfully, purposely, or knowingly kills the Vice-President of the United States or any officer of the United States entitled by law—

And so forth, so that this section would then be for the purpose of punishing only the man who assaults the President with intent to do grievous bodily harm, and in the event of the death of the President as the result of such assault he would then suffer death as the consequence of his act, leaving the rest of the section just as it is reported by the committee.

The CHAIRMAN. The Clerk will report the amendment proposed by the gentleman from Minnesota, so that the committee can understand what the question is.

The Clerk read as follows:

Page 4, line 20, after the word "or," strike out the words "the Vice-President of the United States or any officer entitled by law to succeed to the Presidency." In line 25 strike out the words "Vice-President or other officer." In line 1, page 5, strike out the words "be imprisoned for life" and insert "suffer death."

Mr. TAWNEY. Now, just one word more on that question. In the event of the adoption of this section as reported by the committee, if an assault is made upon the President of the United States while in the discharge of his official duty—that is the language of the bill—from which assault the President dies, then the only punishment that can be inflicted upon him is life imprisonment; and in the event of the recovery of the President from that assault, no matter if it leaves him maimed or otherwise physically disabled for life, the punishment would be only five years. I recall, as does every member of this committee, the circumstances that arose soon after the shooting of President McKinley at Buffalo, when it was supposed that he would certainly recover from the effect of the assault made upon him in that city.

Then the question arose as to what punishment could be inflicted upon the man who had committed this assault with a deadly weapon with intent to kill. It was discovered that he

could be imprisoned for only ten years under the laws of the State of New York, and all over this broad land there arose a wave of indignation because the laws of this country would not permit of more severe punishment. Universal indignation prevailed because the President of the United States had been assaulted with intent to kill and his assailant could be punished only by imprisonment for a term of ten years. The indignation of the people, or their resentment, was not because the President, as a man, had been assaulted, but because in that assault a blow had been struck at our Government, at organized society, and the punishment for an offense of that kind and of that magnitude was wholly inadequate. It was because of this that there came from all over the country a demand for Federal legislation that would afford protection to the President as President, as the Chief Executive of this nation, and not as an individual unit of organized society. I think this amendment ought to be adopted, so that the evil and criminal minded—that all—may know that he who assaults the President of the United States with intent to do him "grievous" bodily harm, and he dies from the effect of such assault, will assault the nation and will forfeit his life as a punishment for the serious offense thus committed.

The CHAIRMAN. The question is on the amendment of the gentleman from Minnesota [Mr. TAWNEY].

The amendment was rejected.

Mr. GILBERT. Mr. Chairman, I offer an amendment to section 5. After the word "death," in line 25, insert the words "within a year and a day."

The Clerk read as follows:

Line 25, page 4, after the word "death," insert the words "within a year and a day."

Mr. GILBERT. Now, Mr. Chairman, we have a statute in this bill, if it is enacted into law, which is applied to two different crimes. A man may commit an unlawful assault upon the President or the Vice-President or any of these officers that will either result in death or it will not. If it results in death, we try him, and he is hung, under section 1, and under section 5 he is sent to the penitentiary. If it does not result in death, we try him, under section 4, and we imprison him for a term not exceeding ten years, and we can try him under section 5 and imprison him for a term of not more that five years; so we have two laws, both denouncing the same offense. Now, if the man dies twenty years after the infliction of the injury upon him, he is sent to prison for life under section 1.

Now, ordinarily there is a common-law period in which the death shall occur. The common-law period was one year and a day, so that if the malicious assault resulted in the death of the President in a year and a day he may be punished by death. If he lives longer than a year and a day, or any other period that may be prescribed, then under section 4 he would be subject to be imprisoned for not less than ten years. So this statute ought to prescribe a term in which the death should result from the infliction of the injury.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Kentucky.

The question was taken, and the amendment was rejected.

Mr. LANHAM. I move to strike out section 5.

The question was taken, and the amendment was rejected.

The Clerk read as follows:

SEC. 7. That any person who knowingly harbors, conceals, or aids, with intent that he may avoid or escape from arrest, trial, conviction, or punishment, any person who has committed either of the offenses mentioned in the preceding sections of this act shall be imprisoned for not less than one nor more than twenty-five years.

Mr. OLMSTED. I offer an amendment.

The Clerk read as follows:

Amend by striking out the words "nor more than twenty-five years."

Mr. OLMSTED. Mr. Chairman, I offer this amendment because, if the judgment of the chairman of the Committee on the Judiciary is correct, these words are entirely superfluous, as it is entirely within the discretion of the court to impose such punishment as it deems necessary or proper. I do not agree with him and offer this simply to test his sincerity. I want to say, in addition to what I said before, that I again challenge the chairman of the Judiciary Committee, or any other gentleman, to point me to one authority where an act which simply fixed the minimum imprisonment and did not express any authority to impose a longer term was held to justify the imposition by the court of any longer term of imprisonment than the single term mentioned in the act as the minimum.

My friend says the Revised Statutes are full of acts imposing the penalty in such language. I have looked them over hastily. Here is the volume. I hand it to the gentleman and again challenge him to show me one instance where imprisonment was ever provided without fixing more than a minimum term. Very frequently the term is provided for not more than a certain number of years. That would, of course, justify a sentence for a lesser number. Generally both the maximum and minimum are named; but there is not in the Revised Statutes, so far as I can find, any instance where the statute simply imposes imprisonment for "not less than" a certain number of years.

Mr. RAY of New York. If the gentleman says that he has looked over the criminal statutes of the United States, he is in error. No man can look over the criminal statutes and apply himself diligently in less than one whole day.

Mr. OLMSTED. No; and if the gentleman will apply himself diligently for a hundred years, he will not find one case where the Revised Statutes fix simply a minimum without also naming a maximum or authorizing a term longer than the minimum.

Mr. RAY of New York. I am not yielding to the gentleman. The gentleman has shown his fairness in debate in this class of legislation by solemnly asserting here what the gentleman from New York said was not true then, that there was no such statute in the language we have used. Now, let us see what is the language we have used.

The CHAIRMAN. The Chair desires to call the attention of the gentleman from New York to the fact that the gentleman from Pennsylvania is constructively assumed to be occupying the floor in favor of his amendment.

Mr. RAY of New York. Oh, I beg pardon.

The CHAIRMAN. The gentleman from New York has not asked to be recognized, nor has he been recognized.

Mr. OLMSTED. The gentleman having shown his fairness in debate, again challenging him to find in the Revised Statutes of the United States one such case as I have referred to and as he asserts abound there, I will withdraw my amendment, so as not to delay matters.

The CHAIRMAN. The amendment is withdrawn.

The Clerk read as follows:

SEC. 8. That any person who advocates, advises, or teaches the duty, necessity, or propriety of the unlawful killing or assaulting of one or more of the officers (either of specific individuals or officers generally) of the Government of the United States, or of the government of any civilized nation, because of his or their official character, or who openly, willfully, and deliberately justifies such killing or assaulting, with intent to cause the commission of any of the offenses specified in the first nine sections of this act, shall be fined not less than $500 nor more than $5,000, or imprisoned not less than one nor more than twenty years, or both.

Mr. MORRELL. Mr. Chairman, I offer the following amendment.

The Clerk read as follows:

On page 5, line 22, after the word "act," strike out to the end of the paragraph and insert the following:

"Shall upon conviction by a proper court thereof be considered a dangerous lunatic, and their property shall be made subject to the court which administers the estate of persons of unsound mind."

The CHAIRMAN. The question is on the amendment proposed by the gentleman from Pennsylvania.

Mr. MORRELL. Mr. Chairman, I consider that the people of the United States are principally, as I said a few days ago, concerned in preventing the crime that resulted in the death of President McKinley. The best way to prevent a repetition of this kind is to stamp out the preaching of these doctrines and by making the punishment as severe and as distasteful as possible.

To imprison, Mr. Chairman, very many of these people who indulge in the teachings of anarchy is rather what they want than the reverse. They have the chance of promulgating their infamous doctrines with those with whom they are thrown in contact in prisen and they come forth as martyrs and are looked to as martyrs by those who have the same principles as they have.

Now, Mr. Chairman, there can be nothing so distasteful to a man as to be considered an insane person and a man of unsound mind. There can be no punishment as great. My amendment reads that upon conviction by the common courts thereafter at all times that man is to be considered as a dangerous lunatic and should be incarcerated accordingly. I have nothing more to say on the subject except to request that the members of the House and the Judiciary Committee give this matter some consideration.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania.

The question was taken and the amendment was rejected.

Mr. UNDERWOOD. Mr. Chairman, I move to strike out section 8.

The CHAIRMAN. The gentleman from Alabama moves to strike out section 8.

Mr. UNDERWOOD. Mr. Chairman, the reason I move to strike out this section is that it applies to a great many people that it is not necessary to protect, and I think if left in the bill would be very dangerous and a means of harassing a great many innocent people.

Section 8 provides:

SEC. 8. That any person who advocates, advises, or teaches the duty, necessity, or propriety of the unlawful killing or assaulting of one or more of the officers (either of specific individuals or officers generally) of the Government of the United States, or of the government of any civilized nation,

because of his or their official character, or who openly, willfully, and deliberately justifies such killing or assaulting, with intent to cause the commission of any of the offenses specified in the first nine sections of this act, shall be fined not less than five hundred nor more than five thousand dollars, or imprisoned not less than one nor more than twenty years, or both.

Now, that says "any officer of the Government." It does not limit it to the President of the United States, the Vice-President of the United States, or a Cabinet officer, but it goes all the way down the line from the President of the United States, and includes a fourth-class postmaster. If one of the citizens of your district, or my district, goes into a fourth-class post-office in this country and becomes involved in a controversy with the postmaster in his town in reference to the handling of the mail and assaults him, growing out of that controversy, he can be taken to the United States Court and tried and convicted under this section for this act. There is no law ever been attempted to be passed by the Congress of the United States since the repeal of the alien and sedition laws that, in my opinion, goes further toward imperiling the liberties of individual citizens and allowing the Government of the United States to go into the homes of the citizens of this country with its strong arm and interfere with local self-government for the protection of the citizens than this section of this act.

Mr. RICHARDSON of Alabama. Will the gentleman allow me?

Mr. UNDERWOOD. Certainly.

Mr. RICHARDSON of Alabama. It not only does that, but it says that any man who justifies it shall be punished.

Mr. UNDERWOOD. Yes, it goes further than that, as my colleague states; and it not only says that the man involved in the assault shall be punished, but his neighbor who is standing around and says that the man who assaulted the postmaster was justified in it, and commends him for the assault, he can also be dragged before the Federal courts and punished for that.

Mr. PATTERSON of Tennessee. Will the gentleman yield to me for a suggestion?

Mr. UNDERWOOD. Certainly.

Mr. PATTERSON of Tennessee. In my judgment, this is one of the best provisions in this bill. I am against some of the features of the bill, but I think this is the best one in it. The gentleman from Alabama is mistaken in his construction of the section, it seems to me. Any man who justifies an assault on a fourth-class postmaster is not a principal offender under this section, unless that justification is with the intent to cause the commission of any of the offenses justified in the first nine sections of this act. The distinction is an exceedingly broad one and well defined. So the justification must not only be to the act itself, but it must be that he intended the commission of one of the offenses specified.

Mr. UNDERWOOD. Of course, that has got to be so.

Mr. PATTERSON of Tennessee. If the gentleman will pardon me further, I think with that qualification there is less objectionable features to this section than to any other section in the bill that has been read.

Mr. UNDERWOOD. If the assault is made by an individual citizen on a postmaster in the discharge of his official duties——

Mr. LITTLEFIELD. It does not read that way.

Mr. UNDERWOOD. Well, read it.

Mr. LITTLEFIELD. Let the gentleman read it himself, and see if he finds it.

Mr. UNDERWOOD. It says "with intent to cause the commission of any of the offenses specified in the first nine sections of this act."

Mr. LITTLEFIELD. Well, that does not justify the gentleman's conclusion.

Mr. UNDERWOOD. Does not the act provide that if he assaults anyone in the official discharge of his duty?

Mr. LITTLEFIELD. No, it does not; by reason of his official character. The act provides, in substance, that if anybody preaches the murder of an official of the United States Government by reason of the fact that he is an official, he shall be punished, and we say that he ought to be punished, and we do not think, with all due respect to my friend from Alabama, that it is an innocent act on the part of any individual to advise such killing.

Mr. UNDERWOOD. It goes further than that.

The CHAIRMAN. The time of the gentleman from Alabama has expired.

Mr. RAY of New York. With the permission of the Chair, I will rise to oppose the amendment and yield two minutes to the gentleman from Alabama.

The CHAIRMAN. Without objection, that may be done.

Mr. UNDERWOOD. Mr. Chairman, I desire to state why I object to this section. Of course if any one should advocate the killing of a postmaster it would be an awful offense; but why should the offender in such a case be dragged before a Federal court for trial? Is a postmaster any better or any higher than any other citizen, or is the Government of the United States so much involved that we must reach out to protect all these small officers? I agree that such a provision may be proper as applied to the President of the United States.

But the worst part of this section is that with reference to assaulting one or more of these officers. Suppose a postmaster gets into some trouble with his neighbors, and some individual advises the assaulting of that officer because there has been some falling out between this individual and the postmaster in regard to the handling of the mail. Or the same supposition may be made in regard to a deputy marshal or any other minor officer of the United States. In such a case, under this provision of the pending bill, the person accused must be dragged before a Federal court, it may be hundreds of miles distant. He may be entirely innocent, but he may be obliged to go with his witnesses hundreds of miles in order to prove his innocence. It seems to me there is no necessity whatever for the enactment of this provision, and I believe that in most cases it would be used as a means of oppression. That is why I oppose it.

The question being taken on the motion of Mr. UNDERWOOD to strike out section 8—

The CHAIRMAN. The noes seem to have it.

Mr. UNDERWOOD. I ask for a division.

The question being again taken, there were—ayes 22, noes 58.

So the amendment was rejected.

Mr. McCALL. I move to strike out in line 16 of this section the words "or assaulting," and also to strike out the same words in lines 20 and 21. Mr. Chairman, it seems to me that the Committee on the Judiciary has not shown its usual care in the preparation of this provision. This is a very carefully considered bill as a whole. I think that as a piece of legal drafting it displays remarkable ability.

But this eighth section, as it now stands, may open the way for proceedings which I think we would not deliberately sanction. Suppose, for instance, an individual has advised another that it is proper for him to thrash a certain fourth-class postmaster, or, if he has done it, tells him that he has done right, and that he ought to do it again. Such a case may be brought within the provisions of this section; and they might apply to very many thousand minor officers who go among the people and are liable to get in trouble with them. It seems to me to include such a provision in the bill would extend it beyond its proper scope.

As to teaching murder as a cult—advocating the destruction of government by destroying the agents of government—that is a very serious offense. But this bill, in addition to providing a punishment in such a case, goes on and suggests a creed which I never heard of any anarchist teaching—that is, advising the assaulting or whipping of some officer of the Government. It strikes me that the provision embraced in this section is too broad. It applies to a great many officers; and, appying to so many, it seems to me it should be more limited. I have hesitated to offer any amendment, but at the same time I did not know how I could get my views before the House without suggesting an amendment of this kind.

MESSAGE FROM THE PRESIDENT OF THE UNITED STATES.

The committee informally rose; and Mr. LONG having taken the chair as Speaker pro tempore, a message from the President of the United States was communicated to the House of Representatives by Mr. B. F. BARNES, one of his secretaries, who informed the House of Representatives that the President had approved and signed bills of the following titles:

On June 7, 1902:

H. R. 4542. An act granting a pension to Eliza J. West;

H. R. 5248. An act granting a pension to Frances A. Tillotson;

H. R. 7397. An act granting a pension to Louisa White;

H. R. 9606. An act granting a pension to Charles Blitz;

H. R. 9794. An act granting an increase of pension to Zebulon A. Shipman;

H. R. 10782. An act granting a pension to Ole Steensland;

H. R. 12418. An act granting a pension to Matilda C. Clarke;

H. R. 13211. An act granting a pension to Melissa Burton;

H. R. 13395. An act granting a pension to Arthur J. Bushnell;

H. R. 2286. An act granting an increase of pension to Mary Etna Poole;

H. R. 2289. An act granting an increase of pension to Pitsar Ingram;

H. R. 2623. An act granting an increase of pension to John Smith;

H. R. 2857. An act granting an increase of pension to Francis C. Houghton;

H. R. 5475. An act granting an increase of pension to August Schill, alias August Silville;

H. R. 5551. An act granting an increase of pension to Charles Edward Price Lance, alias Edward Price;

H. R. 6330. An act granting an increase of pension to William D. Tanner;

H. R. 6037. An act granting an increase of pension to William C. Holcomb;
H. R. 6718. An act granting an increase of pension to Andrew R. Jones;
H. R. 6625. An act granting an increase of pension to Mary S. Downing;
H. R. 7560. An act granting an increase of pension to George W. Butler;
H. R. 8134. An act granting an increase of pension to James H. Dunn;
H. R. 8487. An act granting an increase of pension to John M. Crist;
H. R. 9695. An act granting an increase of pension to Evaline Jenkins;
H. R. 9833. An act granting an increase of pension to Margaret McCuen;
H. R. 11288. An act granting an increase of pension to Mary Scott;
H. R. 12422. An act granting an increase of pension to David Topper;
H. R. 12428. An act granting an increase of pension to Elizabeth G. Getty;
H. R. 12779. An act granting an increase of pension to George Chamberlin;
H. R. 12983. An act granting an increase of pension to Eleanor Emerson;
H. R. 13037. An act granting an increase of pension to Francis W. Anderton; and
H. R. 13614. An act granting an increase of pension to William H. White.

PROTECTION OF THE PRESIDENT.

The committee resumed its session.

The CHAIRMAN. The Clerk will report the amendment of the gentleman from Massachusetts [Mr. MCCALL].

The Clerk read as follows:

In line 16 of section 8 strike out the words "or assaulting."
In lines 20 and 21 of the same section strike out the words "or assaulting."

The CHAIRMAN (having put the question on the amendment of Mr. MCCALL). The ayes appear to have it.

Mr. RAY of New York. I call for a division.

The question being again taken, there were—ayes 63, noes 30.

So the amendment was agreed to.

The Clerk read as follows:

SEC. 9. That any person who conspires with any other person or persons, or requests, advises, or encourages any other person or persons to unlawfully assault or kill, within or without the United States, the chief executive or chief magistrate of any other civilized nation having an organized government, because of his official character, shall be punished as follows: If an attempt to commit such act is made and the death of any person results therefrom, such offender shall suffer death. If such attempt does not result in death, such offender shall be fined not less than five hundred nor more than five thousand dollars, or be imprisoned not less than five nor more than twenty-five years, or both. If such attempt is not made, such offender shall be fined not less than five hundred nor more than five thousand dollars, or be imprisoned not less than one nor more than five years, or both.

Mr. KLEBERG. I offer the amendment which I send to the desk.

The Clerk read as follows:

In lines 2 and 3 of section 9 strike out the words "or requests, advises, or encourages any other person or persons."

Mr. KLEBERG. Mr. Chairman, I think this whole section is foreign to the purpose of this bill. The purpose of the bill is to protect the President, the Vice-President, and such officers as may be in line of lawful succession to the Presidency. This section confines itself entirely to foreign rulers, and for that reason I am against the whole section; but, fearing that possibly the section will be adopted, I want to strike out these words and make it less objectionable. If these words are adopted, it would read simply in this way, that any person who conspired with any other person or persons, etc., to kill. That would simply leave the law of conspiracy, and that certainly ought to be sufficient in a case of this kind.

Where a party enters into a conspiracy the law is well defined as to what conspiracy means and what acts are defined as constituting conspiracy, but these other terms which are placed in this section independently of the conspiracy would make an individual liable who would simply encourage innocently and indirectly an assault upon a foreign potentate whether he entered into a conspiracy or not. Now, what does the word "encourage" mean? It means, in its ordinary signification, to incite to action. Now, that, in my opinion, would, under the power of judicial construction, mean that if any newspaper editor or if any public speaker at a public meeting would inveigh against a throne or a monarchy and use such intemperate language, possibly, as thereby to incite to action someone on the other side of the ocean, some crank, to make an assault upon some crowned head or upon some foreign ruler, then that editor or public speaker could be punished on American soil and be held responsible for such an offense although he had no intention that his language should have that effect.

I say that such a construction, if it can be made, and I believe there is danger that such a construction might be placed upon these terms, would operate as an infringement upon and abridgement to the liberty of speech and freedom of the press. I believe that it would be worse than all the alien and sedition laws of old, because those sedition laws extended only over the domain of our own country; they affected only the conduct of people in our own country, and the words themselves which define sedition had an open and well-defined meaning, and a legal signification. Not so with these words. Their intention seems to be vague and veiled, and while I say that I do not wish for a moment to reflect upon the learning or the integrity of any of the members of the Judiciary Committee, but by some reason, by some unknown influence, these words have crept into this section, and I believe it is one of the most dangerous sections in the whole bill, because it must be an attack, covert attack though it be, upon the liberty of speech and the freedom of the press.

It is a well-known fact that foreign governments are inimical to the freedom of the press and the freedom of speech which obtains in the United States, and I think if this section passes in its present state, that it will place under the surveillance and control of foreign rulers the citizens and the rights and liberties of the citizens of this country. In other words, it would place under the police regulations of any foreign nation the conduct and rights of the people of the United States.

Now, there is a purpose. I know there is a motive behind this section, and I do not say that it is an improper motive at all, but there is an effort existing between our Government and the governments of foreign nations to hunt down the anarchists, and that part of it I believe in and fully approve as far as it can be lawfully done. I do not care how much you legally chase the anarchist, but in doing so we should be cautious not to infringe upon the liberties of our own people, or intrench on the liberty of speech and the freedom of the press.

Mr. RAY of New York. Mr. Chairman, I desire to call the attention of the gentlemen of the committee to this section:

Any person who conspires with any other person or persons, or requests, advises, or encourages any other person or persons to unlawfully assault or kill, within or without the United States, the Chief Magistrate, etc.

Now, you can not do all that unless you have done some act, and there is no danger that any jury would ever unjustly or improperly convict any person. Conspiracy is well defined and well understood.

Mr. KLEBERG. Will the gentleman yield?

Mr. RAY of New York. The gentleman has had five minutes. If I had plenty of time I would yield gladly. This applies to conspiracies here to commit offenses abroad. The section is intended and the purpose is to break up these meetings of anarchists in the United States which teach the commission of murder abroad. We have disagreed with the Senate and add that provision, and think that if we break up these conspiracies here in the United States to murder abroad, and punish the conspirators when we can, that we do all that is necessary to do in that regard. The crime is committed here, for it consists in the conspiracy, not the murder.

Mr. LITTLEFIELD. We do not want to make this a breeding place of anarchy.

Mr. RAY of New York. We do not want to make or permit this country to be a breeding place for anarchy, and this section as it is met the approval of every member of the Judiciary Committee without exception. There is one amendment which I desire to offer as a committee amendment, which would make the section clearer, and that will be in line 7, to make it read: "If an attempt to commit such act is made as the result thereof;" that is, as the result of the conspiracy. That will make it definite and certain. Now, Mr. Chairman, I do not desire to say more.

Mr. SNODGRASS rose.

Mr. RAY of New York. Does the gentleman from Tennessee desire to ask a question?

Mr. SNODGRASS. Yes. What authority has the gentleman found for providing against offenses against foreign nations?

Mr. LITTLEFIELD. It is not an offense against a foreign nation.

Mr. RAY of New York. This is not an offense against foreign nations. It is an offense committed within the United States. It is a conspiracy formed in the United States to commit a crime abroad. Now, the offense which is committed in the United States is the formation of the conspiracy here.

Mr. SNODGRASS. Against whom is the offense committed?

Mr. RAY of New York. Oh, if the conspiracy is carried out, it is against foreign rulers.

Mr. SNODGRASS. Against foreign rulers?

Mr. RAY of New York. But it is clearly within our power. The essence of the crime is the conspiracy.

Mr. SNODGRASS. Suppose every foreign ruler were destroyed, would that destroy our Government?

Mr. RAY of New York. Oh, not at all; but, you know, this section is not for the protection of any particular individual. This section is for the purpose of breaking up these nests of anarchists, these meetings of anarchists in this country.

Mr. LITTLEFIELD. It is justified under the principles of international law.

Mr. RAY of New York. This is justified under our power to enact international law. Now, these anarchists come here or are within the United States. They get together and teach the propriety or the duty or the necessity of murdering monarchs abroad. You will recollect that King Humbert of Italy was murdered as the result of a plot which was concocted, I think, in New Jersey.

Mr. HENRY of Connecticut. In Paterson, N. J.

Mr. RAY of New York. In Paterson, N. J.

Mr. PATTERSON of Tennessee. And the assassin came from this country.

Mr. RAY of New York. The assassin came from this country. Now, it was to reach these plottings that this section was framed. There ought to be no objection to it. The Constitution of the United States provides that we have full power to define and punish piracy and offenses against the law of nations.

Mr. SNODGRASS. Except that we are not authorized to impose any limitation upon free speech.

Mr. RAY of New York. That is quite true; but what is free speech? You can not teach murder, you can not teach crime, you can not encourage crime under the pretense of free speech. We have covered that question in our report.

Mr. SNODGRASS. But the question is whether you are authorized——

Mr. RAY of New York (continuing). Free speech under the Constitution means free speech as it existed at the time of the adoption of that provision, and going back to the common law we find what free speech was. We find that you could not teach anything to break down government, you could not teach crime, you could not encourge it, you could not slander, you could not libel, and you can not to-day, and protect yourself under the theory that the Constitution gives you free speech or freedom of the press.

Mr. SNODGRASS. That may be true, if it be considered as subversive of our own Government and the power to protect our own Government. We might enact such a provision as that, but we are going beyond that, and by limiting free speech we are protecting the security of foreign governments.

Mr. RAY of New York. Not at all. We are preventing the formation of these plots and these conspiracies in the United States, which in themselves are crimes. Now, Mr. Chairman, has my time expired?

The CHAIRMAN. The time of the gentleman has expired.

Mr. LITTLEFIELD. This is not the section with reference to free speech. This is the section relating to conspiracy.

Mr. RAY of New York. I call for a vote.

Mr. PATTERSON of Tennessee. I want to be heard just for a moment.

The CHAIRMAN. Debate on the pending amendment is exhausted, and the chairman of the committee calls for a vote.

Mr. RICHARDSON of Alabama. Mr. Chairman——

The CHAIRMAN. For what purpose does the gentleman rise?

Mr. RICHARDSON of Alabama. I rise for the purpose of moving to strike out.

The CHAIRMAN. That can be done after the pending amendment is disposed of. The question is on the amendment proposed by the gentleman from Texas.

The question being taken on the amendment of Mr. KLEBERG, the Chairman announced that the noes appeared to have it.

Mr. KLEBERG demanded a division.

The committee divided, and there were—ayes 32, noes 61.

Accordingly the amendment was rejected.

Mr. RICHARDSON of Alabama. Mr. Chairman, I move to strike out——

Mr. RAY of New York. Before the motion is made to strike out, I desire to perfect the section, and then the gentleman can make his motion.

The CHAIRMAN. The Chair will recognize the gentleman from Alabama after the section is perfected. The gentleman from New York [Mr. RAY] is recognized.

Mr. RAY of New York. If the gentleman will let us get this perfected, then he shall have his chance.

Mr. RICHARDSON of Alabama. All right.

Mr. RAY of New York. On page 6, line 7, after the word "made," I move to insert the words "as the result thereof;" so that it will read: "If an attempt to commit such act is made as the result thereof."

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 6, line 7, after the word "made," insert "as the result thereof."

The amendment was agreed to.

Mr. RICHARDSON of Alabama. I move to strike out all after the word "both," in line 12, page 6, to the end of the paragraph, down to the word "both," in line 16.

The CLERK. Strike out all after the word "both," in line 12, page 6, to the word "both," in line 16, which reads as follows:

If such attempt is not made, such offender shall be fined not less than five hundred nor more than five thousand dollars, or be imprisoned not less than one nor more than five years, or both.

Mr. RICHARDSON of Alabama. Now, Mr. Chairman, if I understand the entire scope and meaning of the latter part of the section which is being considered, if an attempt is made to kill and death shall result, the party shall suffer death. If the attempt is made and it shall not result in death, then he shall be fined not less than $500 nor more than $5,000, and be imprisoned for not less than five nor more than twenty-five years, or both.

The paragraph to which I call attention is if no attempt is made whatsoever the man is liable to imprisonment for five years. Now I would like to know what does this part of the paragraph here refer to?

Mr. SMITH of Kentucky. The conspiracy.

Mr. RAY of New York. Will the gentleman allow me to answer that?

Mr. RICHARDSON of Alabama. Of course I will.

Mr. RAY of New York. We put that in there, and it is an essential feature of the section. It is not likely that under that section there will be one offense committed in fifty years, except the offense of getting together and holding these meetings, teaching these doctrines, and making these conspiracies. Now, we want to break up these meetings. That is the object of this. It is at the conspiracy we strike. It will do no harm. You strike out these words and you will destroy the section, and leave it in and it will do no earthly harm. You will punish these men when they get together and hold these anarchistic meetings.

Mr. RICHARDSON of Alabama. Then I will say to the chairman of the committee that I do not agree, most respectfully, with their view of the matter. While your object and purpose is good—I admit that to be the fact—it simply means this, as I understand it, that if I have discussed the matter, if I have talked about the matter of the death of Nicholas of Russia, if I have spoken of it in any way, shape, or form, and no act has been done, the conspirators have not done a thing, death has not resulted from it, no injury has resulted from it; but if I have conversed about it, it may be talked about or written about, why is not that an encouragement of it? It has resulted in no act of injury.

It seems to me, Mr. Chairman, that this paragraph has an unlimited extent and meaning and that it does not affect either of the two paragraphs of this bill that we have passed. It is certainly too broad. It certainly leads to opening the door for annoyance to the citizen in every way that can be conceived, and I think, Mr. Chairman, that this part of this section 9 ought to be stricken out. If you can restrict its operation to the workings of anarchists, then I have no objection to make.

I am exceedingly anxious to reach in every possible way anarchy and anarchists. I desire to have this bill perfected in every possible way. I think that the country demands reasonable legislation on this subject. I shall do all I can to perfect this bill on the line of objections expressed by the minority on the committee. I am utterly opposed to all associations that harbor or foster anarchy. I have frankly given my views.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Alabama.

The question was taken; and the amendment was rejected.

Mr. BELLAMY. Mr. Chairman, I would like to send forward an amendment to strike out the words "or encourages" in the second line of the section on the sixth page.

The Clerk read as follows:

Amend by striking out the words "or encourages" in line 2, page 6.

Mr. BELLAMY. And insert between the words "requests" and "advises," the word "or."

The Clerk read as follows:

Strike out in line 2, page 6, the words "or encourages," and insert between the words "requests" and "advises" the word "or."

Mr. BELLAMY. Now, Mr. Chairman and gentlemen of the committee, the offense described in section 9 implies generally that the act must be done willfully and with an intent. In other words, if a person conspires with any other person or persons to commit a crime, that implies that he willfully does it. If he requests a person to do it, that implies a mind and will. If he advises a person to do it, that implies willfulness. But when you come down to the word "encourages," that does not necessarily imply willfulness. An author may write a book, or a man may use language which unintentionally encourages another to do the act prohibited by law, and yet under this bill it is criminal.

I do not think that word "encourages" ought to be retained, because the section will be just as effective without it, and unless that be taken out of the section it might enable one citizen to

vent his spite and spleen on another if he wishes to harass him by informing on him and saying that he said things or used language which "encouraged" the man to commit the act, when it was not intended that way. I hope, therefore, the committee will eliminate the expression "encourages," as it is too vague and may lead to oppression of the citizen. It is and should be the aim of the American Republic to give to the citizen the greatest amount of liberty of action and freedom of speech consistent with law and order. To unnecessarily and by forced construction curtail this right is an interference with one of the most sacred rights of an American, which lies at the very basis of his Government.

Mr. WILLIAMS of Mississippi. I would like to ask the chairman of the Committee on the Judiciary a question. Can the gentleman tell me how anybody can criminally encourage this unlawful assault except by their conspiracy "to request and advise?" What is the use of that word "encourages?"

Mr. RAY of New York. Well, we discussed that in the committee. I will say that we are trying to break up these nests of conspirators that teach anarchy in the United States, and whether there is any additional force in the word "encourages" or not I do not know, and I do not pretend to know, but I think there is. It will do no harm; it may do good in that line. If there is anybody that does not want these nests of conspirators who teach anarchy broken up, they will want to make this provision weak. If we want this stopped, we will make the bill strong. That provision will never hit an American citizen who ought to live in the United States. Now, I am not going to talk about that word "encourages;" if the committee desires to strike it out, let them strike it out, and let us go on and pass the bill.

Mr. WILLIAMS of Mississippi. Mr. Chairman, I take it that everybody here, at any rate, wants to break up the nests of anarchists. I take it that every man in the world who takes pride in civilization must know that that civilization rests on an organized governmental basis. But I do not see how anybody could be guilty of criminal encouragement unless that encouragement grew out of either conspiring to commit the crime, or advising it, or requesting it. Now, let me illustrate——

Mr. NEVIN. Will the gentleman pardon me a question?

Mr. WILLIAMS of Mississippi. I suppose I will have to.

Mr. NEVIN. Suppose a person in sympathy with the anarchists, without advising, or without requesting, or without conspiring, sends him a sum of money to further his object?

Mr. WILLIAMS of Mississippi. I should think the proof of the fact that he had sent the sum of money for that purpose would be a conspiring.

Mr. NEVIN. Not necessarily. Under the legal definition of conspiracy, I take it that there must be some meeting, there must be some agreement together to do a certain thing. But suppose there was a family of anarchists and a person sends them a sum of money to aid in the commission of the crime?

Mr. WILLIAMS of Mississippi. A man may aid and abet in the commission of a crime by furnishing money for the commission just as he would if he furnished a pistol. Now, I do not want to be interrupted further. I want to call the attention of the House to this fact: Some time ago you remember Mr. George Kennan wrote a series of articles for the Century Magazine criticising the Government in Russia and its conduct toward the Siberian exiles, and it was held in Russia that these articles could not be published in Russia because they were held to encourage anarchy and to encourage opposition to the Czar.

Now, I do not know what the court would hold that this indefinite word "encourages" means, but you need not tell me that you are certain when this man who wrote the book in favor of republican institutions for example, and against despotism whether czardom or kaiserdom was held to have encouraged the assassination of czars and kaisers. It seems to me the words "or encourages" ought to go out, first, because they are indefinite, and, secondly, because they do not mean anything, when it can be held that a man writing against despotism might be held to have encouraged the slaughter of despots.

Mr. RAY of New York. Mr. Chairman, the committee are not particularly proud of these two words, and we will accept the amendment.

Mr. PATTERSON of Tennessee. Now, if the gentleman will pardon me, I have this amendment to suggest: I am in favor of this section, as I was of the other section of the bill, and I suggest that these words be inserted; that is, to insert on page 6, line 2, after the word "advises," the words "or does any other act with intent to procure;" so that the section would then read as follows:

SEC. 9. That any person who conspires with any other person or persons or requests, advises, or does any other act with intent to procure any other person or persons to assault or kill, etc.

Mr. RAY of New York. We will accept that. It is a little stronger than we had it before.

Mr. PATTERSON of Tennessee. I want to make it stronger.

Mr. SMITH of Kentucky. Then I suggest that in the amendment of the gentleman from North Carolina we leave out the word "or," which he proposed should be inserted between the words "requests" and "advises."

Mr. BELLAMY. I accept that modification.

The CHAIRMAN. The question is on the motion of the gentleman from North Carolina, to strike out the words "or encourages" in line 2, page 6.

The question was taken; and the amendment was agreed to.

The CHAIRMAN. Now, the gentleman from Tennessee offers an amendment which the Clerk will report.

The Clerk read as follows:

In line 2, page 6, after the word "advises," insert the words "or does any other act with intent to procure," so that the section will read "that any person who conspires with any other person or persons, or requests, advises, or does any other act with intent to procure any other person," etc.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Tennessee.

The question was taken; and the amendment was agreed to.

The Clerk read as follows:

SEC. 10. That this act shall apply to all offenses hereinbefore specified when committed within any State or other place subject to the jurisdiction of the United States.

Mr. LANHAM. Mr. Chairman, I move to strike out this section. To my mind it is extremely objectionable. It is a provision which, if adopted by the House and enacted into law, will confer authority on the Federal courts to enter into the limits of a State and take jurisdiction heretofore never exercised by them.

The question being taken, the amendment was rejected; there being on a division (called for by Mr. LANHAM)—ayes 27, noes 77.

The Clerk read as follows:

SEC. 11. That no person who disbelieves in or who is opposed to all organized government, or who is a member of or affiliated with any organization entertaining and teaching such disbelief in or opposition to all organized government, or who advocates or teaches the duty, necessity, or propriety of the unlawful assaulting or killing of any officer or officers, either of specific individuals or of officers generally, of the Government of the United States or of any other organized government, because of his or their official character, shall be permitted to enter the United States or any Territory or place subject to the jurisdiction thereof. This section shall be enforced by the Secretary of the Treasury under such rules and regulations as he shall prescribe: *Provided*, That no such person shall be allowed to enter as an immigrant.

That any person who knowingly aids or assists any such person to enter the United States or any Territory or place subject to the jurisdiction thereof, or who connives or conspires with any person or persons to allow, procure, or permit any such person to enter therein, except pursuant to such rules and regulations made by the Secretary of the Treasury, shall be fined not less than five hundred nor more than five thousand dollars, or imprisoned for not less than one nor more than five years, or both.

Mr. SHATTUC. I move to amend the section just read by striking out, in lines 7 and 8, the words "provided that no such person shall be allowed to enter as an immigrant." I am a little afraid that the distinguished gentleman, chairman of the Judiciary Committee, does not know what an "immigrant" is.

The CHAIRMAN. The Chair will state the proposition of the gentleman from Ohio [Mr. SHATTUC]. It is to strike out, in lines 7 and 8, the words "provided that no such person shall be allowed to enter as an immigrant."

Mr. SHATTUC. I should like the privilege of asking a few questions of the chairman of the Judiciary Committee before I offer the remainder of my amendment. I wish to ask him whether he knows what an "immigrant" is? [Laughter.]

Mr. RAY of New York. Well, I have met a great many people and seen a great many coming in, whom I supposed to be immigrants.

Mr. SHATTUC. Give us the legal or judicial definition of the word.

Mr. RAY of New York. I am not going to stand here and allow the gentleman from Ohio to run a school, he acting as teacher and asking me questions, and I as pupil answering them. There is nothing so likely to lead a man into difficulty as an ordeal of that kind.

Mr. SHATTUC. And there is nothing in this world that would do you so much good and make you appear to such advantage as putting yourself under my charge for a while.

Mr. RAY of New York. I concede that.

Mr. SHATTUC. I have the floor.

Mr. RAY of New York. No, you called me up.

Mr. SHATTUC. But I have the floor now, and decline to yield further. [Laughter.] I say there is nothing that would become the gentleman so much and make him appear to such advantage as for him to look into the dictionary and see what the definition of the word "immigrant" is. Therefore I have offered in good faith this motion to strike out the proviso of this section.

Mr. LITTLEFIELD. Will not the gentleman from Ohio tell us what his definition is?

Mr. SHATTUC. With great pleasure. An immigrant is one who comes to this country with a view of making a permanent residence here. Now, persons who do not come here with the view of making their permanent residence here would not come

under the provisions of this bill. I want to help you great constitutional lawyers out. [Laughter.]

Mr. LITTLEFIELD. The gentleman is very accommodating.

Mr. SHATTUC. Sure.

The CHAIRMAN. The Clerk will read the proviso which the gentleman from Ohio proposes to substitute for that embraced in the section.

The Clerk read as follows:

Provided, That no such person shall be allowed to enter if he intends to become a permanent resident or citizen of this country.

Mr. SHATTUC. That is what the language of the bill ought to be if you want to shut out immigrants. But I will withdraw my proposition, if there is no objection, and will permit the chairman of the Judiciary Committee to run this business to suit himself. [Laughter.] I simply wanted to "teach school" to this distinguished man, because when I was managing a bill a few days since on this floor as chairman of the Immigration Committee he thought for just one moment he would show me how to write an immigration bill, and I want to reciprocate by showing him how to write an anarchy bill.

Mr. RAY of New York. I thank the gentleman.

Mr. SHATTUC. Very well; then I have not another word to say. [Laughter.]

Mr. GILBERT. I have an amendment which I desire to offer to section 11.

The Clerk read as follows:

Amend section 11 by striking out in lines 13 and 14 the words "except pursuant to such rules and regulations made by the Secretary of the Treasury."

Mr. GILBERT. Mr. Chairman, the Secretary of the Treasury ought not to be permitted to nullify this statute by any rules or regulations which he may issue. That officer has elsewhere been authorized to enforce this statute by proper rules and regulations. This language here seems to confer upon him authority to annul the section and, by rules and regulations, enlarge the limitations so as to allow anybody that he may choose to enter this country. Those words ought to be stricken out.

Mr. RAY of New York. I desire to say only a word on this subject. The Secretary of the Treasury, if he enforces this bill as he ought, will have to make rules and regulations and live up to them. But there will occasionally be a time when some person desires to come in, not as an immigrant but as a visitor, as did Prince Henry of the German Empire not long since. Now, to enforce ordinary rules against such a person as that would be rather an insult, not only to the individual but to the nation.

Mr. GILBERT. But you have not prohibited——

Mr. RAY of New York. And if we did not make some such exception the Secretary of the Treasury would have no discretion.

Mr. GILBERT. But you have not elsewhere prohibited such person as Prince Henry from coming, or any other unobjectionable character.

Mr. RAY of New York. That is true, not absolutely; but we have provided for rules and regulations which would have to be enforced, and which, if so drawn as to make this law efficient, would have to be enforced against all persons coming; and all persons would have to be examined as to their beliefs, and as to their residence, and as to many things—their age and parentage, etc. Now, we put that proviso in there so as to give the Secretary of the Treasury a discretion in enforcing those rules. It can not do any harm, and it better be there.

Mr. GILBERT. It seems to me, Mr. Chairman, and Mr. Chairman of the committee, that every applicant at our ports for permission to enter our territory either comes within the prohibited rules or he does not. If he does come within the prohibited rules, the Secretary of the Treasury ought not to be allowed to establish any rules or regulations to annul that decision. If he does not come within the prohibitions, then there is no necessity for the proviso.

The CHAIRMAN. The question is on the amendment of the gentleman from Kentucky.

The question was taken, and the amendment was rejected.

The Clerk read as follows:

SEC. 13. That in all prosecutions under the provisions of the first seven sections of this act it shall be presumed, until the contrary is proved, that the President of the United States, or Vice-President of the United States, or other officer of the United States entitled by law to succeed to the Presidency, as the case may be, was, at the time of the commission of the alleged offense, engaged in the performance of his official duties. Nothing in this act contained shall be construed as an admission or declaration that there is a time when either of such officers, during the tenure of his office, is not engaged in the performance of his official duties.

Mr. HENRY of Mississippi. Mr. Chairman, I offer the following amendment.

The Clerk read as follows:

For section 13 substitute the following:

"That in all prosecutions under the provisions of the first seven sections of this act every material allegation contained in the indictment shall be proven beyond every reasonable doubt."

The CHAIRMAN. I would suggest to the gentleman from Mississippi that this is a substitute for section 13, is it not?

Mr. HENRY of Mississippi. Yes.

The CHAIRMAN. If this were acted upon at this time, it would preclude any amendment to section 13, and the Chair does not know whether there are amendments to be offered or not.

Mr. LITTLEFIELD. Mr. Chairman, I have a committee amendment. It is simply verbal, for the purpose of perfecting the section. I move to amend by inserting, after the word "who," on page 9, in line 5, the word "knowingly," so that it will read, "or who knowingly makes an affidavit," etc.

The CHAIRMAN. I will state to the gentleman from Maine that he can make that motion only by unanimous consent.

Mr. RAY of New York. Mr. Chairman, I make the point of order that that section has been passed and completed.

The CHAIRMAN. The gentleman from Maine can not make that motion except by unanimous consent.

Mr. LITTLEFIELD. We have passed that section, I understand.

The CHAIRMAN. Yes.

Mr. LITTLEFIELD. Very well.

Mr. STEWART of New Jersey. Mr. Chairman, I offer the following amendment.

The Clerk read as follows:

On page 9, line 11, add the word "conclusively" after the word "be;" and in line 12 strike out the words "until the contrary is proved."

The CHAIRMAN. The question is on agreeing to the amendments proposed by the gentleman from New Jersey.

Mr. CLARK. Mr. Chairman, no one knows what it is.

The CHAIRMAN. The Clerk has just read it. He will again report it for the benefit of the gentleman from Missouri.

Mr. CLARK. I would like him to read the section as it would read if amended.

The Clerk read as follows:

That in all prosecutions under the provisions of the first seven sections of this act it shall be conclusively presumed that the President of the United States, etc.

Mr. STEWART of New Jersey. Mr. Chairman, I hope that this amendment will be adopted. It will simplify the bill and make it absolutely and clearly constitutional. It will make it very clear that the President of the United States, that great and only great executive officer, is always charged and always clothed with authority of power, and the presumption will always be conclusive.

Mr. BARTLETT. Mr. Chairman, I oppose the amendment of the gentleman from New Jersey, as I likewise oppose this section. To adopt the amendment would simply conclude the defendant when arraigned from making any plea at all except that of guilty, and would make the case complete when the indictment was read. It would be, in fact, nothing but a judicial lynching at once. Now, Mr. Chairman, we have been here for several days discussing this matter, and most of us agree with the Committee on the Judiciary, that in order to give the United States court jurisdiction at all of the offenses set out in this bill, it must be because of the official character of the persons against whom the assaults are made, or against whom the offense is attempted, or because of the official discharge of their duties, or the omission to discharge some official duty. The very heart, the very essence, of this bill is the fact that the assault is made upon some person while he is in the discharge of his duty as an officer of the United States Government.

This amendment proposes to go further than the section of the bill as reported by the committee, and not only to make the presumption prima facie, but to make it conclusive, so that it can not be rebutted. Even the section of the bill as reported by the committee overturns every rule and principle of the criminal law that ever existed from time immemorial. We have embedded in our system of criminal procedure, and handed down to us from the Roman law, handed down to us from the early English law, a principle which has been repeated again and again in the decisions of the various State courts, and affirmed and reaffirmed by the decisions of the Supreme Court of the United States, that no presumption of guilt, or of any material fact in the case, is raised against the defendant in any criminal trial.

But here we have an amendment which proposes to make the presumption conclusive. Here we have a bill which proposes to overturn the ancient, venerated, and long-established law that the defendant is presumed to be innocent, and it is presumed that he has committed no offense, and that this presumption requires not simply that it be rebutted, but that it be overturned by proof beyond a reasonable doubt.

I wish I had the time to read the decision which I have here by the Supreme Court of the United States, in the case of Coffin *v.* The United States, in 156 United States Supreme Court Reports, page 445.

The learned Justice White, who delivered the opinion, lays it down as an axiomatic proposition that, in every criminal trial held

according to law, humanity, Christianity, and civilization demand that the presumption shall be that the defendant is innocent of every substantive fact, of every necessary ingredient to make out the crime.

But here is a proposition by the committee—and the amendment of the gentleman from New Jersey [Mr. STEWART] goes further than the proposition of the committee. We are to presume that the defendant is guilty of that fact which gives to the courts jurisdiction of the offense and makes the defendant guilty. You might as well provide by this section that he shall not be heard at all. You might as well provide that wherever a grand jury shall indict the defendant, he shall be sentenced by the court, without plea and without trial. [Applause on the Democratic side.]

Mr. RAY of New York. Mr. Chairman, I move that debate on section 13 and all amendments thereto now pending close in five minutes.

Mr. PATTERSON of Tennessee. I object to that.

The CHAIRMAN. The gentleman from New York moves that debate on the pending section and all pending amendments shall close in five minutes.

The question being taken, the Chairman announced that the ayes appeared to have it.

Mr. PATTERSON of Tennessee demanded a division.

The committee divided; and there were—ayes 75, nays 35.

Accordingly the motion was agreed to.

Mr. PATTERSON of Tennessee. Mr. Chairman, I desire to offer an amendment.

Mr. PAYNE. There is an amendment pending.

The CHAIRMAN. There is an amendment pending. Does the gentleman desire to speak to that amendment?

Mr. PATTERSON of Tennessee. I do, Mr. Chairman; yes. I want to say that I think those of us who disagree with the majority on this thirteenth section ought to have been given more time for its discussion. It is one of the most important features of this whole bill.

Mr. RAY of New York. I know, but you have had three days to discuss it.

Mr. PATTERSON of Tennessee. We have not had any such thing, begging your pardon. According to your motion here, which has been carried, we have but five minutes to discuss this section of the bill.

Mr. RAY of New York. What I mean to say is that we have had this bill under discussion now in general debate for two full days, and that included section 13.

Mr. PATTERSON of Tennessee. I understand that. Now, I want to say that I believe the distinguished gentlemen who compose the majority of the Judiciary Committee have woven a net of legal incongruity and absurdity which is extreme. In this country you can not convict a defendant except by proof beyond a reasonable doubt, and no matter what the charge is, the defendant is presumed to be innocent until the contrary is proven. Yet it is proposed to go ahead here and make a legislative declaration that there is no time when any of these officers, during their tenure of office, are not engaged in the performance of their official duties.

I say that you are legislating against anarchy, and I am as much in favor of doing that as any gentleman on this floor can possibly be. Let us legislate by fair, equal, just, and equitable laws, and let us eliminate this kind of legal incongruity and not enact it into law. It seems to me that all after the word "duties," in line 17, ought to be stricken out, and that the question whether or not an officer is engaged in an official act ought to be one of fact, just like all other facts are submitted to the jury, under proper instructions from the court. Now, the Federal court, if this bill goes into law, has jurisdiction of these cases; and this question ought to be a question of fact, to be determined by the jury from all the facts and circumstances.

Mr. MORRELL. Mr. Chairman, I move to strike out the last word of the pending motion, and incidentally I would like to congratulate the chairman of the Committee on the Judiciary for the magnificent front that they have presented here in the arrangement of this case. They have treated those who were in favor of the bill and those who were opposed to the bill with equal consideration. The front that they have presented reminds me of a court sitting in banc; a great big wall, a wall of Troy you almost might say, absolutely impregnable. I congratulate myself, Mr. Chairman, on the fact that I am a member of the bar, a member of the judiciary, not of this great House of Representatives, but of the great State of Pennsylvania. [Applause]. Therefore, gentlemen, I would again express my congratulations.

Mr. LITTLEFIELD. What office did the gentlemen hold as a member of the judiciary?

The CHAIRMAN. Debate is exhausted. The question is on the amendment.

The question was taken, and the amendment was disagreed to.

Mr. PATTERSON of Tennessee. I offer an amendment.

Mr. THOMAS of Iowa. I desire to offer an amendment.

The CHAIRMAN. The Chair will recognize the gentleman from Iowa, a member of the committee.

Mr. THOMAS of Iowa. I desire to submit the following amendment.

The Clerk read as follows:

Amend section 13 by inserting immediately after the word "duties," in line 17, of page 9, the following words: "and that the alleged offense was committed because of his official character and because of his official acts and omissions."

Mr. THOMAS of Iowa. I rise, Mr. Chairman, to make an inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. THOMAS of Iowa. The motion of the gentleman from New York, as I understood it, was that all debate on the pending amendment be closed in five minutes, and that being so, it still leaves the section open to amendment and debate.

The CHAIRMAN. The section is open to amendment, but not to debate.

Mr. THOMAS of Iowa. I will ask unanimous consent that the motion of the gentleman from New York be read for the information of the House.

The CHAIRMAN. The Chair will have it read without unanimous consent.

Mr. RAY of New York. My request was very clear.

The CHAIRMAN. It was that all debate upon the section and all amendments thereto be closed. The Chair put that in as loud a voice as it was possible for him to use.

Mr. THOMAS of Iowa. The Chair put the motion to limit to the House on the pending amendment.

The CHAIRMAN. All that the Chair can say is that he overrules the point of order made by the gentleman from Iowa. The question is on the amendment.

Mr. SMITH of Kentucky. I would like to have the amendment offered by the gentleman from Iowa read again.

The CHAIRMAN. Without objection, the amendment will be again read.

The amendment was again reported.

The question was taken, and the amendment was rejected.

Mr. SMITH of Kentucky. Now, Mr. Chairman, I move to strike out section 13.

Mr. PATTERSON of Tennessee. I have offered an amendment.

The CHAIRMAN. Does the gentleman offer the amendment to the section?

Mr. PATTERSON of Tennessee. I offer it now.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

In line 17, after the word "duties," strike out the remainder of the section.

The CHAIRMAN. The question is on agreeing to the amendment.

The question was taken, and the amendment was rejected.

Mr. HENRY of Mississippi. I offered a substitute at the beginning.

The CHAIRMAN. The gentleman from Mississippi offers an amendment in the nature of a substitute, which the Clerk will report.

The Clerk read as follows:

That in all prosecutions under the provisions of the first seven sections of this act every material allegation contained in the indictment shall be proven beyond every reasonable doubt.

The CHAIRMAN. The question is on the amendment of the gentleman from Mississippi.

Mr. HENRY of Mississippi. Mr. Chairman——

The CHAIRMAN. There is no debate.

Mr. HENRY of Mississippi. I ask unanimous consent that I may be allowed to address the House for a few minutes on my amendment.

Mr. RAY of New York. I must object, Mr. Chairman.

Mr. WILLIAMS of Mississippi. I hope the gentleman will not object to my colleague being heard.

Mr. HENRY of Mississippi. I will withdraw the substitute and ask that it be offered as section 14 to the bill, at the proper time.

The CHAIRMAN. The gentleman from Mississippi asks unanimous consent to withdraw the amendment which he proposed to section 13. Is there objection?

Mr. RAY of New York. I object.

The CHAIRMAN. The question is then on the motion of the gentleman to amend by way of a substitute.

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. HENRY of Mississippi. Division, Mr. Chairman.

The committee divided; and there were—ayes 44, noes 79.

So the substitute was rejected.

Mr. SMITH of Kentucky. I move to strike out section 13 of the bill.

The CHAIRMAN. That motion has been put and negatived.

Mr. SMITH of Kentucky. I think the Chairman must certainly be mistaken about that.

The CHAIRMAN. The motion was put in the form of striking out and insert.

Mr. SMITH of Kentucky. This now is a plain proposition to strike it out.

The CHAIRMAN. The gentleman is right. The question is on the motion to strike out section 13.

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. SMITH of Kentucky. Division, Mr. Chairman.

The committee divided, and there were—ayes 59, noes 67.

Mr. SMITH of Kentucky. Tellers, Mr. Chairman.

Tellers were ordered.

The CHAIRMAN. The gentleman from Kentucky, Mr. SMITH, and the gentleman from New York, Mr. RAY, will please act as tellers.

The committee again divided; and the tellers reported—ayes 60, noes 68.

So the amendment was rejected.

Mr. HENRY of Mississippi. Mr. Chairman, I offer the following amendment as an additional section.

The CHAIRMAN. If there are no further amendments to section 13, the gentleman from Mississippi offers the following amendment as an additional section.

The Clerk read as follows:

SEC. 14. On the trial of all cases under the first seven sections of this act, the defendant shall be presumed to be innocent until the contrary is proven to the exclusion of all reasonable doubt.

Mr. HENRY of Mississippi. Now, Mr. Chairman, in support of that section——

Mr. RAY of New York. Mr. Chairman, I desire to make a point of order. As I understood it, this proposition is the same provision that was voted on as one of the amendments.

The CHAIRMAN. The gentleman from Mississippi offered the proposition to the thirteenth section of the bill as an amendment in the shape of a substitute. Thereupon he proposed to withdraw it and objection was made and the vote was taken and the committee voted against permitting that matter to become an amendment to section 13. But the Chair is of opinion that the gentleman has now a right to offer it as an additional section to the bill, and that the former vote did not bar his right. The House might desire to have it in this form and not in the other.

Mr. HENRY of Mississippi. Mr. Chairman, in view of the fact that for quite a number of years prior to coming to Congress I was actively engaged in interpreting the criminal law as district attorney and judge of one of the circuit courts in Mississippi, I feel that I am warranted in making a suggestion as to the constitutionality, legality, or necessity of section 13 of this bill, which section reads as follows:

SEC. 13. That in all prosecutions under the provisions of the first seven sections of this act it shall be presumed, until the contrary is proved, that the President of the United States, or Vice-President of the United States, or other officer of the United States entitled by law to succeed to the Presidency, as the case may be, was, at the time of the commission of the alleged offense, engaged in the performance of his official duties. Nothing in this act contained shall be construed as an admission or declaration that there is a time when either of such officers, during the tenure of his office, is not engaged in the performance of his official duties.

In discussing this measure, and particularly the above section, I am glad to know that it can be discussed from an unbiased standpoint, free from the charges of partisanship or politics. I take it that there is not a member on either side of this House who does not sincerely desire that some measure be adopted to protect the President of the United States as far as it is possible legally or, I might say, within legal bounds so to do.

In other words, we are, I think, all opposed to anarchy, whether it be of the kind that would dissolve society and law in blood and inaugurate a system of no government or by mutual agreement rescind or break up a system now existing and every man announce for himself and assume the rôle of needing no laws, no government. But is this measure not a cloak to give greater concessions to a chosen few rather than an honest effort to suppress anarchy in this country? The States which go to make up this the grandest country of organized government are jointly jealous of the contract entered into and the Constitution which binds us, and are, therefore, unwilling that any disbelievers in our faith should come between us and our love of country, State, and laws, and the people would resist such an attempt with the iron hand of the law and, if necessary, enact something more stringent.

Therefore, when we are confronted with a condition such as is exampled by the depraved, distempered, and weakened mind of a Czolgosz, we are with one accord anxious to make laws satisfactory to ourselves and suitable for emergencies as they present themselves. But, while we are here to legislate, are we not to do so, ever with the knowledge of our power, and with a feeling that our duty will not be done should we do other than that which is permitted us to do under our Constitution and the laws which govern us in all matters? In other words, Mr. Chairman, I for one am unwilling to have a fit of hysterics, lose my balance, and fall into what might seem popular clamor, and thereby ignore long-known doctrines or laws which by use and service have become so honored that no one can question their effectiveness, justness, and righteousness.

Therefore in offering the section, which shall be known as 14, I do so with no intention of trying to prevent the passage of this bill, because it is a foregone conclusion it will pass as reported by the committee. But I offer the following as a new section in order to, in a measure, bring the proof of the case within the well-founded law governing such cases, and submit it in this form:

SEC. 14. On the trial of all cases under the first seven sections of this act the defendant shall be presumed to be innocent until the contrary is proven to the exclusion of all reasonable doubt.

Now, I ask in all sincerity and earnestness: Can there be objection to that section? If there is, pray tell me why.

I know there are many good lawyers in this House, and all the legal lore is not to be found on either side, and it does seem to me that in trying to perfect a bill which has, to my mind, many uncalled for sections and unnecessary ones, we should at least be willing and glad to perfect it as far as is practical and possible.

Under section 13 of this act there is a "presumption" contained—one would ordinarily consider that word very innocent. To quote the language of that section:

That in all prosecutions under the provisions of the first seven sections of this act it shall be presumed, until the contrary is proved, that the President of the United States or Vice-President of the United States, or other officer, etc., was at the time of the commission of the offense in the discharge of his duty, until the contrary be shown.

In view of the fact that the United States courts can only obtain jurisdiction of a case when an officer of the Government is in the discharge of his duty as such, it makes the thing presumed by this act one of materiality and one without which no prosecution could possibly be had in the Federal courts; that fact, then, being material to the prosecution, without which none could be had in the Federal court, should, I declare, not be presumed, but should be proven as any other material allegation in the indictment.

The nearest analogy that I can point is that where in murder the use of a deadly weapon, the malice requisite to murder is presumed, but in that the use of a deadly weapon is a fact which must be proven by the Government or State before there is any presumption. So, that he was President in the discharge of his duty is a fact, just as the use of a deadly weapon, which is susceptible of proof and should be proven like any other material allegation in the case. I think it is hardly necessary for me to cite authorities to sustain this contention of mine, but I submit the following as being some of the fundamental principles of the law generally accepted as such, the contrary opinion as expressed by different gentlemen notwithstanding.

When one is accused of murder the law presumes him to be innocent until the contrary is made to appear, and that beyond all reasonable doubt; but if it be shown that he killed the deceased with a deadly weapon, the general presumption of innocence (in so far as malice is concerned) yields to the specific proof, and the law infers that the killing, if unexplained, was malicious, and therefore murder.

Thus you will note that the only presumption of a necessary fact to secure a conviction is upon proof being made of a fact, to wit: "The use of a deadly weapon." Whereupon, when that proof is made, the malice requisite may be presumed. This is such a plain proposition of the settled doctrine of the law in my State, Mississippi, and all other States which I have investigated, that to give the decisions covering that point would require much more space than a denial among sensible men would demand, but here are a few from Mississippi and a good one from the United States Supreme Court: McDaniel *v.* State, 8 S. and M., p. 400; Green *v.* State, 28 Miss., p. 687; Mask *v.* State, 36 Miss., p. 77; Hawthorn *v.* State, 58 Miss., p. 778; Bishop *v.* State, 62 Miss., p. 289; Lamar *v.* State, 63 Miss., p. 265; James *v.* State, 45 Miss., p. 572; Goodwin *v.* State, 73 Miss., p. 873. And this one from the very court which will determine the constitutionality and legality of the law you are now trying to enact. I refer to Coffin *v.* United States (156 U. S. Rep., 432), and will quote from the opinion by Mr. Justice White a few lines:

The forty-fourth charge asked and refused is as follows:

The law presumes that persons charged with crime are innocent until proven by competent evidence to be guilty. To the benefit of this presumption the defendant is entitled, and this presumption stands as his sufficient protection unless it has been moved by evidence proving his guilt beyond a reasonable doubt.

That was an instruction asked for by the defendant and by the court refused. Now, let us see what the great court of last resort in this country says about it after having reviewed a number of

other charges, as they are called, which we will call instructions. Justice White says:

The fact, then, is that while the court refused to instruct as to the presumption of innocence it instructed fully on the subject of reasonable doubt.

And the court further says:

The principle that there is a presumption of innocence in favor of the accused is the undoubted law, axiomatic and elementary, and its enforcement lies at the foundation of the administration of our criminal law.

Case reversed.

I am opposed to this act from another standpoint. I am inclined to believe that the first seven sections are unnecessary, ill advised, and dangerous in the extreme.

The laws of the States are amply sufficient to care for the citizen or the stranger within their gates, and I might suggest that they are jealous of their right to see that justice is done in the ferreting out of crime and seeing the law properly enforced.

The Constitution of the United States gives to the United States rights to protect its officers while in the discharge of their duties, and Congress has made suitable provisions for their care, but the States have reserved to themselves rights which they have long been exercising and against which little complaint can be urged in so far as the law itself is concerned. In other words, there is and can be no possible question that the State laws taken with the Federal statutes are adequate. If they were not in so far as the President and even the Vice-President are concerned, I would not hesitate to vote for some measure constitutionally and legally prepared which would give those two officials proper and secure protection.

The doctrine of States' rights is very dear to me, and every step or act upon the part of Congress to digress from the beaten track so long acceptably and successfully followed should be scrutinized and questioned so long as there is one semblance of doubt as to the result of the enactment of any law.

The love of our State, the affection we have for the laws that govern the people of our States, our friends, our neighbors, our kinsmen, all go to make more dear not only the traditions of our rights, but our legal rights as recognized by the courts of this country and the Constitution of the United States.

Is this not a step in the direction of taking from us our State's rights? Whether it is so intended by this bill or not, it has a tendency in that direction.

There was a bill introduced at this very session for the trial of one accused of train wrecking, if the train carried United States mail, in the Federal court. Why such measures, unless it be that step by step we are to by degrees give up that for which our forefathers stood and that which they maintained?

In our State courts our judges are equally as learned in the law as the Federal, our district attorneys as efficient as those for the Government, our clerks competent, while our sheriffs, being more in touch with the people, are far more capable of executing the court's warrants.

To exemplify this fact, if any be required after the conviction and punishment of the moral pervert Czolgosz in a State court, I need only refer to an instance which, I am sorry to say, took place in my own State—Mississippi. Two United States marshals went in search of some illicit rum makers, and after having secured them—two in number, I believe—they, the marshals, concluded to rest the balance of the night at a house belonging to some one kin to the prisoners—a rather reckless thing to do, perhaps—but at any rate they so decided and went to bed and to sleep, and during the night were foully murdered while they slept. The whole country was aroused, the murderers caught, a special term of the State court convened, and the accused convicted and sentenced to be hung in less than three weeks. Can you gentlemen wish for more speedy or condign punishment and a more perfect execution of the law? Can the same promptness be claimed in the vindication of the law in the trial of Guiteau when tried for the murder of President Garfield? Ah, no! You all recall that trial, which was had in a Federal court.

I quote the language of my friend from Georgia, Mr. BARTLETT, in his discussion of this measure in order to impress the committee with the earnestness of my position and the soundness of my contention. Many other cases could be cited, but these I think, are sufficient.

Mr. BARTLETT said:

I am in favor of protecting the President of the United States from assassination by the anarchists or from any illegal or wanton assault that may be made against him as the head of the Government, because of the fact that he is the President and in discharge of his duty.

I am glad the chairman of this committee and the members who followed him rose to the great height of declaring that a law of the country should be enacted in conformity with the Constitution.

The decision I have in my hand, United States *v.* Patrick (54 Fed. Rep., 339), refers to the case of the United States against Cruikshank (93 U. S. Reports, p. 553), and Judge Jackson, in discussing this very question, says:

It was of these fundamental rights of life and liberty that the courts said (in United States *v.* Cruikshank, 92 U. S., 553-554), "Sovereignty for this purpose rests alone with the States."

It is no more the duty or within the power of the United States to punish a conspiracy to falsely imprison or murder within a State than it would be to punish for false imprisonment or murder itself. And that doctrine has been upheld in the case of Logan *v.* The United States (144 U. S.).

Class legislation, as a rule, is rarely, if ever, acceptable. The same punishment should be meted out to each, and the same cloak and protecting arm of the Government should be ever ready to surround you or me.

I question the right of a Secretary of State or Treasury, or what not, to be allowed something else under the law greater and better than that which has been given the humble citizen. Upon what meat hath been their wont to feed that they should be thus so tenderly nurtured and cared for? And ambassadors of state, with their gilded finery, dazzling the eyes of us plain people, with their elegance. What say you? Can we not speak of them? Can we not look at them? Are we to have another alien and sedition law—a law which has failed to withstand time? Are we as a nation, unequaled in our prowess at arms, our generosity of the wealth that comes to our coffers, exultant in our protestation of upholding the weak against the strong, to admit in one small moment the necessity of making laws which are for the high and mighty and not for the poor and lowly?

Thomas Jefferson declared for "equal rights to all; special privileges to none." By his words I stand. Do you say it is anarchy to so side with the plain people in thus upholding the declarations of Jefferson? As another illustrious man once said, "If this be treason, make the most of it." So say I, If this be anarchy, make the most of it. [Prolonged applause.]

The CHAIRMAN. The question is on the amendment proposed by the gentleman from Mississippi.

The question was taken; and on a division (demanded by Mr. HENRY of Mississippi) there were 46 ayes and 67 noes.

Mr. RAY of New York. Mr. Chairman, I now move that the substitute as amended be adopted.

The CHAIRMAN. The question is on the adoption of the substitute proposed by the committee as amended.

The question was taken, and the substitute as amended was agreed to.

Mr. RAY of New York. Mr. Chairman, I move that the committee do now rise and report the bill as amended to the House with the recommendation that the bill as amended do pass.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. GROSVENOR, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill (S. 3653) for the protection of the President of the United States, and for other purposes, and had instructed him to report the bill back with an amendment with the recommendation that as amended the bill do pass.

Mr. RAY of New York. Mr. Speaker, I now demand the previous question on the bill and amendment to its final passage.

The previous question was ordered.

The amendment was agreed to.

Mr. DE ARMOND. Mr. Speaker, I desire to offer a motion to recommit.

The SPEAKER. That is not quite in order yet.

The bill was ordered to be engrossed and read a third time; and it was read the third time.

The SPEAKER. The question now is on the passage.

Mr. DE ARMOND. Mr. Speaker, I desire to offer a motion to recommit.

The SPEAKER. With or without instructions?

Mr. DE ARMOND. With instructions.

The Clerk read as follows:

Resolved, That the pending bill be recommitted to the Committee on the Judiciary with instructions to report the same back amended by striking out sections 3 and 13 thereof.

The SPEAKER (having put the question on agreeing to the motion). The noes appear to have it.

Mr. DE ARMOND. I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 60, nays 90, answering "present" 17, not voting 184; as follows:

YEAS—60.

Bankhead,	Edwards,	McLain,	Shallenberger,
Bartlett,	Finley,	Maddox,	Sims,
Bell,	Fox,	Mickey,	Smith, Ky.
Bellamy,	Gilbert,	Newlands,	Snodgrass,
Breazeale,	Glenn,	Norton,	Snook,
Brundidge,	Henry, Miss.	Patterson, Tenn.	Spight,
Burgess,	Howard,	Randell, Tex.	Stark,
Burleson,	Jones, Va.	Ransdell, La.	Stephens, Tex.
Burnett,	Kitchin, Claude	Reid,	Swanson,
Caldwell,	Kitchin, Wm. W	Richardson, Ala.	Taylor, Ala.
Candler,	Kleberg,	Robinson, Ind.	Thomas, N. C.
Cooper, Tex.	Lanham,	Rucker,	Underwood,
Cowherd,	Little,	Scarborough,	Vandiver.
De Armond,	Lloyd,	Shackleford,	Wheeler,
Dinsmore,	McCulloch,	Shafroth,	Wooten.

NAYS—90.

Alexander,	Grosvenor,	Metcalf,	Southard,
Bartholdt,	Hamilton,	Miller,	Sperry,
Bates,	Henry, Conn.	Minor,	Steele,
Bishop,	Hildebrant,	Moody, N. C.	Stevens, Minn.
Brick,	Hill,	Moody, Oreg.	Stewart, N. J.
Brown,	Hitt,	Moon,	Stewart, N. Y.
Burkett,	Hopkins,	Needham,	Sulloway,
Butler, Pa.	Howell,	Nevin,	Sutherland,
Cannon,	Jack,	Olmsted,	Tawney,
Capron,	Jones, Wash.	Overstreet,	Tayler, Ohio
Conner,	Kahn,	Padgett,	Thomas, Iowa
Coombs,	Ketcham,	Palmer,	Tirrell,
Cousins,	Kluttz,	Parker,	Tompkins, Ohio.
Cromer,	Knapp,	Payne,	Van Voorhis,
Cushman,	Lacey,	Pearre,	Vreeland,
Draper,	Lawrence,	Perkins,	Warner,
Esch,	Lewis, Pa.	Ray, N. Y.	Warnock,
Evans,	Littlefield,	Reeves,	Watson,
Fletcher,	Long,	Rumple,	Williams, Ill.
Fordney,	Lovering,	Shattuc,	Williams, Miss.
Gibson,	McCleary,	Smith, Iowa	Woods.
Graff,	McLachlan,	Smith, H. C.	
Greene, Mass.	Mercer,	Smith, S. W.	

ANSWERED "PRESENT"—17.

Adamson,	Crumpacker,	Latimer,	Richardson, Tenn
Beidler,	Deemer,	Loud,	Scott.
Bromwell,	Foss,	McCall,	
Clark,	Hay,	McClellan,	
Cochran,	Jett,	Pierce,	

NOT VOTING—184.

Acheson,	Davis, Fla.	Hull,	Powers, Mass.
Adams,	Dayton,	Irwin,	Prince,
Allen, Ky.	De Graffenreid,	Jackson, Kans.	Pugsley,
Allen, Me.	Dick,	Jackson, Md.	Reeder,
Aplin,	Dougherty,	Jenkins,	Rhea, Va.
Babcock,	Douglas,	Johnson,	Rixey,
Ball, Del.	Dovener,	Joy,	Robb,
Ball, Tex.	Driscoll,	Kehoe,	Roberts,
Barney,	Eddy,	Kern,	Robertson, La.
Belmont,	Elliott,	Knox,	Robinson, Nebr.
Benton,	Emerson,	Kyle,	Ruppert,
Bingham,	Feely,	Lamb,	Russell,
Blackburn,	Fitzgerald,	Landis,	Ryan,
Blakeney,	Fleming,	Lassiter,	Schirm,
Boreing,	Flood,	Lessler,	Selby,
Boutell,	Foerderer,	Lester,	Shelden,
Bowersock,	Foster, Ill.	Lever,	Sheppard,
Bowie,	Foster, Vt.	Lewis, Ga.	Sherman,
Brantley,	Fowler,	Lindsay,	Showalter,
Bristow,	Gaines, Tenn.	Littauer,	Sibley,
Broussard,	Gaines, W. Va.	Livingston,	Skiles,
Brownlow,	Gardner, Mich.	Loudenslager,	Slayden,
Bull,	Gardner, N. J.	McAndrews,	Small,
Burk, Pa.	Gill,	McDermott,	Smith, Ill.
Burke, S. Dak.	Gillet, N. Y.	McRae,	Smith, Wm. Alden
Burleigh,	Gillett, Mass.	Mahon,	Southwick,
Burton,	Goldfogle,	Mahoney,	Sparkman,
Butler, Mo.	Gooch,	Mann,	Storm,
Calderhead,	Gordon,	Marshall,	Sulzer,
Cassel,	Graham,	Martin,	Talbert,
Cassingham,	Green, Pa.	Maynard,	Tate,
Clayton,	Griffith,	Meyer, La.	Thayer,
Connell,	Griggs,	Miers, Ind.	Thompson,
Conry,	Grow,	Mondell,	Tompkins, N. Y.
Cooney,	Hall,	Morgan,	Tongue,
Cooper, Wis.	Hanbury,	Morrell,	Trimble,
Corliss,	Haskins,	Morris,	Wachter,
Creamer,	Haugen,	Moss,	Wadsworth,
Crowley,	Heatwole,	Mudd,	Wanger,
Currier,	Hedge,	Mutchler,	Weeks,
Curtis,	Hemenway,	Naphen,	White,
Dahle,	Henry, Tex.	Neville,	Wiley,
Dalzell,	Hepburn,	Otjen,	Wilson,
Darragh,	Holliday,	Patterson, Pa.	Wright,
Davey, La.	Hooker,	Pou,	Young,
Davidson,	Hughes,	Powers, Me.	Zenor.

The following pairs were announced:
For the session:
Mr. IRWIN with Mr. GOOCH.
Mr. WANGER with Mr. ADAMSON.
Mr. BROMWELL with Mr. CASSINGHAM.
Mr. RUSSELL with Mr. MCCLELLAN.
Mr. BOREING with Mr. TRIMBLE.
Mr. YOUNG with Mr. BENTON.
Mr. DEEMER with Mr. MUTCHLER.
Mr. SHERMAN with Mr. RUPPERT.
Mr. BULL with Mr. CROWLEY.
Mr. MORRELL with Mr. GREEN of Pennsylvania.
Mr. HEATWOLE with Mr. TATE.
Mr. WRIGHT with Mr. HALL.
Until further notice:
Mr. BOWERSOCK with Mr. LINDSAY.
Mr. HEPBURN with Mr. COCHRAN.
Mr. DAVIDSON with Mr. SPARKMAN.
Mr. BROWNLOW with Mr. PIERCE of Tennessee.
Mr. HEMENWAY with Mr. ZENOR.
Mr. FOSS with Mr. MEYER of Louisiana.
Mr. BURKE of South Dakota with Mr. BUTLER of Missouri.
Mr. HANBURY with Mr. LEVER.
Mr. WM. ALDEN SMITH with Mr. FEELY.
Mr. CONNELL with Mr. FOSTER of Illinois.
Mr. BALL of Delaware with Mr. ALLEN of Kentucky.
Mr. ALLEN of Maine with Mr. DAVIS of Florida.
Mr. SHOWALTER with Mr. SLAYDEN.
Mr. DAYTON with Mr. DAVEY of Louisiana.
Mr. GILLETT of Massachusetts with Mr. NAPHEN.
Mr. BINGHAM with Mr. CREAMER.
Mr. POWERS of Maine with Mr. GAINES of Tennessee.
Mr. MCCALL with Mr. ROBERTSON of Louisiana.
Mr. HOLLIDAY with Mr. MIERS of Indiana.
Mr. SKILES with Mr. TALBERT.
Mr. GORDON with Mr. SCOTT.
Mr. GILLET of New York with Mr. CLAYTON.
Mr. CALDERHEAD with Mr. ROBB.
Mr. LANDIS with Mr. CLARK.
Mr. BARNEY with Mr. MCRAE.
Mr. BOUTELL with Mr. GRIGGS.
Mr. LOUDENSLAGER with Mr. DE GRAFFENREID.
For two weeks:
Mr. WEEKS with Mr. SHEPPARD.
For one week:
Mr. CURRIER with Mr. PUGSLEY.
Mr. CRUMPACKER with Mr. GRIFFITH.
Until June 10:
Mr. FOSTER of Vermont with Mr. POU.
Mr. HULL with Mr. HAY.
Mr. DALZELL with Mr. RICHARDSON of Tennessee.
Until June 9:
Mr. DARRAGH with Mr. THOMPSON.
Mr. PATTERSON of Pennsylvania with Mr. LESTER.
Mr. ADAMS with Mr. BRANTLEY, until next Monday.
For this day:
Mr. GRAHAM with Mr. FLOOD.
Mr. CURTIS with Mr. RHEA of Virginia.
Mr. BURK of Pennsylvania with Mr. LEWIS of Georgia.
Mr. BURLEIGH with Mr. DOUGHERTY.
Mr. GARDNER of Michigan with Mr. SULZER.
Mr. GILL with Mr. LATIMER.
Mr. BEIDLER with Mr. HOOKER.
Mr. JOY with Mr. JACKSON of Kansas.
Mr. OVERSTREET with Mr. SELBY.
Mr. EMERSON with Mr. HENRY of Texas.
Mr. WACHTER with Mr. MAYNARD.
Mr. CASSEL with Mr. ROBINSON of Nebraska.
Mr. REEDER with Mr. BROUSSARD.
Mr. BLACKBURN with Mr. BOWIE.
Mr. ACHESON with Mr. BALL of Texas.
Mr. TOMPKINS of New York with Mr. WILEY.
Mr. BABCOCK with Mr. LIVINGSTON.
Mr. WADSWORTH with Mr. WILSON.
Mr. SMITH of Illinois with Mr. WHITE.
Mr. SHELDEN with Mr. SMALL.
Mr. SCHIRM with Mr. THAYER.
Mr. PRINCE with Mr. RYAN.
Mr. MARSHALL with Mr. MAHONEY.
Mr. MAHON with Mr. MCDERMOTT.
Mr. LITTAUER with Mr. LASSITER.
Mr. LESSLER with Mr. LAMB.
Mr. HEDGE with Mr. KERN.
Mr. HAUGEN with Mr. KEHOE.
Mr. GARDNER of New Jersey with Mr. MCANDREWS.
Mr. GAINES of West Virginia with Mr. GOLDFOGLE.
Mr. FOERDERER with Mr. FLEMING.
Mr. DOUGLAS with Mr. FITZGERALD.
Mr. DICK with Mr. COONEY.
Mr. CORLISS with Mr. ELLIOTT.
Mr. BRISTOW with Mr. CONRY.
Mr. DRISCOLL with Mr. RIXEY.
Mr. DOVENER with Mr. JOHNSON.
On this vote:
Mr. SOUTHWICK with Mr. BELMONT.
Mr. MUDD with Mr. NEVILLE.

Mr. JETT. Mr. Speaker, I voted in the affirmative. I see that I am paired with my colleague [Mr. MANN]. I desire to withdraw my vote and announce myself as "present."

The SPEAKER. The Clerk will call the gentleman's name.

The Clerk called the name of Mr. JETT, and he answered "present."

Mr. WOOTEN. Mr. Speaker, I was in my seat and listening for my name. I did not hear it called. I desire to vote "aye" on the bill.

The SPEAKER. The gentleman will be noted as "present." We will see later whether he voted.

Mr. PIERCE. Mr. Speaker, I desire to withdraw my vote. I am paired with Mr. BROWNLOW, of Tennessee.

The SPEAKER. The Clerk will call the name of the gentleman.

The Clerk called the name of Mr. PIERCE, and he answered "present."

Mr. RICHARDSON of Tennessee. Mr. Speaker, I voted "aye." I am paired with the gentleman from Pennsylvania [Mr. DALZELL], and I therefore withdraw my vote.

The SPEAKER. The Clerk will call the name of the gentleman.

The Clerk called the name of Mr. RICHARDSON of Tennessee, and he answered "present."

Mr. WOOTEN. Mr. Speaker, I do not know that the Chair understood my request. I was in my seat listening for my name to be called, but did not hear it. I wish to vote "aye."

The SPEAKER. Was the gentleman listening for the call of his name?

Mr. WOOTEN. Yes.

The SPEAKER. The Clerk will call the name of the gentleman.

The Clerk called the name of Mr. WOOTEN, and he voted "aye."

The SPEAKER. On this question the yeas are 61 and the nays 89; "present," 17; total, 167. There is no quorum present.

Mr. RAY of New York. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; and accordingly (at 5 o'clock and 30 minutes p. m.) the House adjourned until Monday at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, the following executive communications were taken from the Speaker's table and referred as follows:

A letter from the Secretary of the Treasury, submitting an estimate of appropriation for rent and other expenses in his Department—to the Committee on Appropriations, and ordered to be printed.

A letter from the Secretary of the Treasury, transmitting a copy of a communication from the Secretary of State submitting a request for authority in relation to funds of the International Exposition at Paris—to the Committee on Appropriations, and ordered to be printed.

A letter from the Secretary of the Treasury, transmitting a copy of a communication from the Commissioners of the District of Columbia submitting an estimate of additional appropriation for deficiencies in the service of the Washington water supply—to the Committee on Appropriations, and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions of the following titles were severally reported from committees, delivered to the Clerk, and referred to the several Calendars therein named, as follows:

Mr. MOODY of Oregon, from the Committee on Indian Affairs, to which was referred the bill of the House (H. R. 9501) to provide for the sale of the unsold portion of the Umatilla Indian Reservation, reported the same with amendments, accompanied by a report (No. 2412); which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. THOMAS of Iowa, from the Committee on the Judiciary, to which was referred the bill of the House (H. R. 14919) relating to the allowance of exceptions, reported the same with amendments, accompanied by a report (No. 2413); which said bill and report were referred to the House Calendar.

Mr. FLETCHER, from the Committee on Interstate and Foreign Commerce, to which was referred the bill of the Senate (S. 2162) to increase the efficiency and change the name of the United States Marine-Hospital Service, reported the same without amendment, accompanied by a report (No. 2415); which said bill and report were referred to the Committee of the Whole House on the state of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, private bills and resolutions of the following titles were severally reported from committees, delivered to the Clerk, and referred to the Committee of the Whole House, as follows:

Mr. GIBSON, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 13150) granting a pension to J. B. Mahan, reported the same with amendments, accompanied by a report (No. 2362); which said bill and report were referred to the Private Calendar.

Mr. KLEBERG, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 14837) granting a pension to John H. Roberts, reported the same without amendment, accompanied by a report (No. 2363); which said bill and report were referred to the Private Calendar.

Mr. SULLOWAY, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 6040) granting an increase of pension to John W. Craine, reported the same without amendment, accompanied by a report (No. 2364); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 14098) granting an increase of pension to Albert M. Scott, reported the same without amendment, accompanied by a report (No. 2365); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 13690) granting a pension to Freeman R. Gove, reported the same with amendments, accompanied by a report (No. 2366); which said bill and report were referred to the Private Calendar.

Mr. CROWLEY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 13324) granting an increase of pension to John J. Cross, reported the same with amendment, accompanied by a report (No. 2367); which said bill and report were referred to the Private Calendar.

Mr. SULLOWAY, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 5140) granting an increase of pension to Dudley Cary, reported the same without amendment, accompanied by a report (No. 2368); which said bill and report were referred to the Private Calendar.

Mr. RUMPLE, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 14381) granting an increase of pension to George Riddle, reported the same with amendment, accompanied by a report (No. 2369); which said bill and report were referred to the Private Calendar.

Mr. NORTON, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 1274), granting a pension to Mary E. Fleming, reported the same with amendments, accompanied by a report (No. 2370); which said bill and report were referred to the Private Calendar.

Mr. DEEMER, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 5263) granting a pension to Fannie Frost, reported the same without amendment, accompanied by a report (No. 2371); which said bill and report were referred to the Private Calendar.

Mr. HOLLIDAY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 12103) granting an increase of pension to Henry Hale, reported the same with amendments, accompanied by a report (No. 2372); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 3552) granting a pension to John A. Reilley, reported the same without amendment, accompanied by a report (No. 2373); which said bill and report were referred to the Private Calendar.

Mr. DEEMER, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 5758) granting an increase of pension to Newton W. Elmendorf, late of Company C, Sixth Regiment Pennsylvania Reserves, and Company E, One hundred and ninety-first Pennsylvania Volunteer Infantry, reported the same with amendments, accompanied by a report (No. 2374); which said bill and report were referred to the Private Calendar.

Mr. HOLLIDAY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 12700) granting an increase of pension to Eberhard P. Lieberg, reported the same with amendment, accompanied by a report (No. 2375); which said bill and report were referred to the Private Calendar.

Mr. RUMPLE, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 5080) granting a pension to Hester A. Farnsworth, reported the same without amendment, accompanied by a report (No. 2376); which said bill and report were referred to the Private Calendar.

Mr. KLEBERG, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 9402) granting a pension to Alexander Curd, reported the same with amendments, accompanied by a report (No. 2377); which said bill and report were referred to the Private Calendar.

Mr. DEEMER, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 5302) granting an increase of pension to John H. Everitt, reported the same without amendment, accompanied by a report (No. 2378); which said bill and report were referred to the Private Calendar.

Mr. CROWLEY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 3304) granting a pension to William Burke, reported the same with amendments, accompanied by a report (No. 2379); which said bill and report were referred to the Private Calendar.

Mr. DEEMER, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 4764) granting an increase of pension to Queen Esther Grimes, reported the same

without amendment, accompanied by a report (No. 2380); which said bill and report were referred to the Private Calendar.

Mr. GIBSON, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 4952) granting a pension to A. D. Rutherford, reported the same with amendments, accompanied by a report (No. 2381); which said bill and report were referred to the Private Calendar.

Mr. DEEMER, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 4912) granting an increase of pension to Maggie L. Reaver, reported the same without amendment, accompanied by a report (No. 2382); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 2243) granting an increase of pension to George W. Mathews, reported the same with amendment, accompanied by a report (No. 2383); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 4509) granting an increase of pension to Robert Lemon, reported the same without amendment, accompanied by a report (No. 2384); which said bill and report were referred to the Private Calendar.

Mr. LINDSAY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 14067) granting an increase of pension to John Wright, reported the same with amendments, accompanied by a report (No. 2385); which said bill and report were referred to the Private Calendar.

Mr. DEEMER, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 2265) granting an increase of pension to William Kelley, reported the same without amendment, accompanied by a report (No. 2386); which said bill and report were referred to the Private Calendar.

Mr. SULLOWAY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 11171) granting relief to Elizabeth A. Nalley, reported the same with amendments, accompanied by a report (No. 2387); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 14687) granting a pension to Margaret Brennan, reported the same with amendment, accompanied by a report (No. 2388); which said bill and report were referred to the Private Calendar.

Mr. GIBSON, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 9154) granting a pension to Lillie V. Ball, reported the same with amendments, accompanied by a report (No. 2389); which said bill and report were referred to the Private Calendar.

Mr. RUMPLE, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 13621) granting an increase of pension to Anson Greeman, reported the same with amendments, accompanied by a report (No. 2390); which said bill and report were referred to the Private Calendar.

Mr. LINDSAY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 8023) granting an increase of pension to John Downing, reported the same with amendment, accompanied by a report (No. 2391); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 14774) granting a pension to John C. Clarke, reported the same with amendments, accompanied by a report (No. 2392); which said bill and report were referred to the Private Calendar.

Mr. GIBSON, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 14814) granting a pension to Herman J. Miller, reported the same without amendment, accompanied by a report (No. 2393); which said bill and report were referred to the Private Calendar.

Mr. CROWLEY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 12745) granting an increase of pension to Edmond Likes, reported the same without amendment, accompanied by a report (No. 2394); which said bill and report were referred to the Private Calendar.

Mr. SULLOWAY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 10263) granting an increase of pension to Daniel J. Byrnes, reported the same with amendments, accompanied by a report (No. 2395); which said bill and report were referred to the Private Calendar.

Mr. HOLLIDAY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 14592) granting a pension to Benjamin F. Barrett, reported the same with amendments, accompanied by a report (No. 2396); which said bill and report were referred to the Private Calendar.

Mr. KLEBERG, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 14836) granting a pension to Rebecca L. Chambers, reported the same with amendment, accompanied by a report (No. 2397); which said bill and report were referred to the Private Calendar.

Mr. DEEMER, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 1530) granting an increase of pension to Eliza A. Rickards, reported the same with amendment, accompanied by a report (No. 2398); which said bill and report were referred to the Private Calendar.

Mr. CROWLEY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 9988) granting a pension to Calvin W. Clark, late of Company G, Thirteenth Regiment Illinois Volunteer Infantry, reported the same with amendments, accompanied by a report (No. 2399); which said bill and report were referred to the Private Calendar.

Mr. NORTON, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 10964) granting an increase of pension to Francis M. Beebe, reported the same without amendment, accompanied by a report (No. 2400); which said bill and report were referred to the Private Calendar.

Mr. CROWLEY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 13815) granting an increase of pension to James J. Wilson, reported the same with amendment, accompanied by a report (No. 2401); which said bill and report were referred to the Private Calendar.

Mr. GIBSON, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 13617) granting a pension to Anne M. Luman, reported the same with amendments, accompanied by a report (No. 2402); which said bill and report were referred to the Private Calendar.

Mr. DEEMER, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 2409) granting a pension to Mary J. Markel, reported the same with amendments, accompanied by a report (No. 2403); which said bill and report were referred to the Private Calendar.

Mr. RUMPLE, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 11579) granting an increase of pension to John A. Wright, reported the same with amendment, accompanied by a report (No. 2404); which said bill and report were referred to the Private Calendar.

Mr. DEEMER, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 5960) granting an increase of pension to Lambert Johnson, reported the same with amendments, accompanied by a report (No. 2405); which said bill and report were referred to the Private Calendar.

Mr. SULLOWAY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 3672) granting a pension to Emily S. Barrett, reported the same with amendment, accompanied by a report (No. 2406); which said bill and report were referred to the Private Calendar.

Mr. HOLLIDAY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 3513) granting increase of pension to James W. Young, reported the same with amendment, accompanied by a report (No. 2407); which said bill and report were referred to the Private Calendar.

Mr. SULLOWAY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 12056) granting an increase of pension to Warren C. Plummer, reported the same with amendment, accompanied by a report (No. 2408); which said bill and report were referred to the Private Calendar.

Mr. RUMPLE, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 14421) granting an increase of pension to John Q. A. Rider, reported the same with amendment, accompanied by a report (No. 2409); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 9153) granting an increase of pension to J. D. Binford, reported the same with amendments, accompanied by a report (No. 2410); which said bill and report were referred to the Private Calendar.

Mr. HOLLIDAY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 13565) granting a pension to Mary V. Scriven, reported the same with amendments, accompanied by a report (No. 2411); which said bill and report were referred to the Private Calendar.

Mr. LOVERING, from the Committee on Interstate and Foreign Commerce, to which was referred the bill of the Senate (S. 1570) for the relief of the widow and children of the late Joseph W. Etheridge and the widow of the late John M. Richardson, reported the same without amendment, accompanied by a report (No. 2414); which said bill and report were referred to the Private Calendar.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, Mr. DAYTON introduced a resolution (H. Res. 293) providing for the appointment of a superintendent of the Clerk's document room; which was referred to the Committee on Accounts.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions of the following titles were introduced and severally referred as follows:

By Mr. BELL: A bill (H. R. 14964) granting a pension to Jose Pablo Garcia—to the Committee on Pensions.

By Mr. BRICK: A bill (H. R. 14965) for the relief of Levi C. Smith—to the Committee on War Claims.

By Mr. EVANS: A bill (H. R. 14966) granting an increase of pension to Ambrose Lindsey—to the Committee on Invalid Pensions.

By Mr. GILBERT: A bill (H. R. 14967) granting a pension to W. H. O'Dear—to the Committee on Invalid Pensions.

By Mr. HOOKER: A bill (H. R. 14968) for the relief of Mattie J. and W. P. Horn, heirs of Preston A. Horn—to the Committee on War Claims.

Also, a bill (H. R. 14969) for the relief of Caleb Perkins—to the Committee on War Claims.

Also, a bill (H. R. 14970) for the relief of the estate of James P. Smith—to the Committee on War Claims.

Also, a bill (H. R. 14971) for the relief of Charlotte Spears—to the Committee on War Claims.

Also, a bill (H. R. 14972) for the relief of the estate of George G. Noland, deceased—to the Committee on War Claims.

Also, a bill (H. R. 14973) for the relief of D. O. Perkins—to the Committee on War Claims.

Also, a bill (H. R. 14974) for the relief of the estate of W. T. Collins, deceased—to the Committee on War Claims.

Also, a bill (H. R. 14975) for the relief of the estate of Thomas S. Maben, deceased—to the Committee on War Claims.

Also, a bill (H. R. 14976) for the relief of L. A. Whitehead—to the Committee on War Claims.

Also, a bill (H. R. 14977) for the relief of J. E. Whittington—to the Committee on War Claims.

Also, a bill (H. R. 14978) for the relief of the estate of Jesse Mabry, deceased—to the Committee on War Claims.

Also, a bill (H. R. 14979) for the relief of the estate of William M. Bowles, deceased—to the Committee on War Claims.

Also, a bill (H. R. 14980) for the relief of the estate of John R. Powers, deceased—to the Committee on War Claims.

Also, a bill (H. R. 14981) for the relief of the estate of Wesley Crisler, deceased—to the Committee on War Claims.

Also, a bill (H. R. 14982) for the relief of the estate of William A. Tinsley, deceased—to the Committee on War Claims.

Also, a bill (H. R. 14983) for the relief of the estate of William E. Bolls, deceased—to the Committee on War Claims.

Also, a bill (H. R. 14984) for the relief of Samuel S. Coon—to the Committee on War Claims.

Also, a bill (H. R. 14985) for the relief of J. B. Hall, deceased—to the Committee on War Claims.

Also, a bill (H. R. 14986) for the relief of Mrs. Catherine P. Byrnes—to the Committee on War Claims.

Also, a bill (H. R. 14987) for the relief of Ann M. Brown—to the Committee on War Claims.

Also, a bill (H. R. 14988) for the relief of the estate of James S. Winters, deceased—to the Committee on War Claims.

Also, a bill (H. R. 14989) for the relief of the estate of Henry E. Windley—to the Committee on War Claims.

Also, a bill (H. R. 14990) for the relief of the heirs of Mrs. Nancy Mitchell—to the Committee on War Claims.

By Mr. MOSS: A bill (H. R. 14991) for the relief of John R. Harvey—to the Committee on Invalid Pensions.

Also, a bill (H. R. 14992) granting an increase of pension to Thomas P. Murray—to the Committee on Invalid Pensions.

Also, a bill (H. R. 14993) granting an increase of pension to Levi M. Chapman—to the Committee on Invalid Pensions.

By Mr. PADGETT: A bill (H. R. 14994) for the relief of the estate of Nancy P. Garrison, deceased—to the Committee on War Claims.

By Mr. SMITH of Iowa: A bill (H. R. 14995) for the relief of Charles H. Warren—to the Committee on Military Affairs.

Also, a bill (H. R. 14996) for the relief of A. M. Ellis—to the Committee on Claims.

Also, a bill (H. R. 14997) for the relief of Mrs. M. E. Haldeman—to the Committee on Claims.

By Mr. SULLOWAY: A bill (H. R. 14998) granting an increase of pension to Francis H. Hervey—to the Committee on Invalid Pensions.

By Mr. TONGUE: A bill (H. R. 14999) granting a pension to John W. Trunnell—to the Committee on Invalid Pensions.

By Mr. HITT: A bill (H. R. 15000) granting an increase of pension to William J. Wiggins—to the Committee on Invalid Pensions.

By Mr. CURRIER: A bill (H. R. 15001) granting an increase of pension to Clara E. Smith—to the Committee on Invalid Pensions.

By Mr. GIBSON: A bill (H. R. 15002) granting a pension to Elias S. Carroll—to the Committee on Invalid Pensions.

By Mr. OTJEN: A resolution (H. Res. 294) to refer to the Court of Claims House bills Nos. 6511, 9380, 10014, 5042, 8262, 9479, 5717, 5720, 10127, 10128, 10081, 1764, 2211, 8377, 3276, 10123, 10867, 5564, 8330, 12030, 8265, 8006, 13965, 5493, 5491, 5502, 5507, 5508, 5484, 11143, 12747, 12748, 13603, 13903, 8264, 10349, 6715, 3279, 7421, 12445, 13518, 13521, 3423, 5976, 14901, 3613, 3719, 1773, 7438, 11041, 2951, 8223, 13050, 13648, and 10709 and the claims included therein—to the Committee on War Claims.

PETITIONS, ETC.

Under clause 1 of Rule XXII, the following petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. ALEXANDER: Resolutions of Electrical Workers' Association No. 3, of New York, indorsing House bill 6279, to increase the pay of letter carriers—to the Committee on the Post-Office and Post-Roads.

Also, petition of Dr. W. G. Gregory, of Buffalo, N. Y., in support of House bill 123, for the adoption of the metric system of weights and measures—to the Committee on Coinage, Weights, and Measures.

By Mr. BOWERSOCK: Papers to accompany House bill 14949, granting an increase of pension to William J. Shepard—to the Committee on Invalid Pensions.

By Mr. BRICK: Petition of Indiana State Board of Agriculture, favoring the passage of House bill 8375, relating to land-grant colleges—to the Committee on Mines and Mining.

Also, resolutions of Lakeview Post, No. 246, of Syracuse, Ind., Grand Army of the Republic, favoring the construction of war ships in the United States navy-yards—to the Committee on Naval Affairs.

Also, resolutions of Bricklayers and Masons' International Union No. 18, of South Bend, Ind., in relation to the employment of union bricklayers and masons in the erection of the naval dry dock at New Orleans, La.—to the Committee on Naval Affairs.

By Mr. CALDERHEAD: Resolutions of Southern Kansas Millers' Club, of Wichita, Kans., for the ratification of certain reciprocal treaties—to the Committee on Foreign Affairs.

By Mr. CONRY: Resolutions of the city council of Lowell, Mass., indorsing House bill 6279, to increase the pay of letter carriers—to the Committee on the Post-Office and Post-Roads.

By Mr. CROMER: Resolution of George H. Thomas Post, of Indianapolis, and strongly indorsed by Elwood Post, Grand Army of the Republic, Department of Indiana, favoring a service-pension bill—to the Committee on Invalid Pensions.

By Mr. IRWIN: Petition of numerous citizens of Kentucky, in favor of House bills 178 and 179, for the repeal of the tax on distilled spirits—to the Committee on Ways and Means.

By Mr. MOODY of Oregon: Resolutions of board of trustees of the Portland (Oreg.) Chamber of Commerce, in favor of a law to pension men of Life-Saving Service—to the Committee on Interstate and Foreign Commerce.

By Mr. NAPHEN: Resolutions of the common council of Lowell, Mass., indorsing House bill 6279, to increase the pay of letter carriers—to the Committee on the Post-Office and Post-Roads.

By Mr. POWERS of Massachusetts: Resolutions of the city council of Lowell, Mass., in favor of the proposed increase of pay of letter carriers—to the Committee on the Post-Office and Post-Roads.

By Mr. RICHARDSON of Alabama: Papers to accompany House bills 6975, 10969, 12088, 2724, 5619, 4007, 6219, 5625, 5618, 11136, 10124, 4010, 2716, 8565, 2729, 2746, 2736, 2727, 2744, 6973, 6977, 9949, 2735, 8567, 6971, 10467, 2731, 8568, 2732, 2733, 2734, and 8566, for reference of war claims to Court of Claims—to the Committee on War Claims.

By Mr. ROBINSON of Indiana: Petition of Anthony Wayne Post, No. 271, of Fort Wayne, Ind., Grand Army of the Republic, favoring the passage of House bill 3067—to the Committee on Invalid Pensions.

By Mr. SCOTT: Petition of Vicksburg Post, No. 72, of Humboldt, Grand Army of the Republic, Department of Kansas, favoring a bill to modify and simplify the pension laws—to the Committee on Invalid Pensions.

By Mr. STEPHENS of Texas: Petition of citizens of Indian Territory, relating to the education of white children, to accompany House resolution 292—to the Committee on Indian Affairs.

Also, papers to accompany House bill 14133, to correct the military record of Henry T. Lloyd—to the Committee on Military Affairs.

Also, papers in support of House bill 9951, granting a pension to Martha Helm—to the Committee on Pensions.

Also, paper to accompany House bill 1755, granting a pension to Susan S. Rayner—to the Committee on Pensions.